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3rd Edition

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3rd Edition (2022)

South Dakota County Commissioners Handbook

As a County Commissioner, you are faced daily with the daunting task of understanding a myriad of county issues and implementing complex programs and services. This must be done in such a way as to best meet the needs of your constituents, while holding the line on precious tax dollars.

The *South Dakota Association of County Commissioner's Handbook* has been established as a vital tool to aid county commissioners in managing and conducting the affairs of county government. It is the intent of this edition of the *Handbook* to outline the major statutory requirements which must be met by either a particular commissioner or the governing body as a whole when discharging the duties of office and conducting the affairs of county government.

The laws of the State of South Dakota which relate to county government range from restrictive to permissive. It should always be remembered that this *Handbook* is not all encompassing and that only an outline of the statutory scheme of county government has been presented. This *Handbook* can and should be considered merely as a guide and the county official should always refer to the South Dakota Codified Laws and its pocket supplements for the exact content of the law before taking any action. It is recommended that your states attorney be consulted on all legal matters.

This *Handbook* is comprised of a collection of information covering topics that county commissioners use on a regular basis. It is our intention to keep the information current and make any necessary revisions to content. Please review it, use it often and give the association office feedback on its effectiveness. Your thoughts are welcome and encouraged.

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South Dakota has 66 counties -- 64 organized and 2 unorganized (Oglala Lakota and Todd) -- ranging in geographic size from as little as 412 square miles in Clay County to as many as 3471 square miles in Meade County. According to 2020 census figures South Dakota Counties range in population from 917 in Jones County to 197,214 in Minnehaha County. The first counties -- Yankton, Minnehaha, Bon Homme, Clay and Union -- were organized in 1862.

The following excerpts are reprinted from the *South Dakota Journal of County Government*. The message of the article rings as true today as it did when it was printed in August, 1954 -- "County Government Is Important!"

"County Government Is Important!"

W.O. Farber -- T.C. Geary

Department of Government, University of South Dakota

Few citizens appreciate the great importance of county government in South Dakota. Events on the national and state levels tend to overshadow the activities of local government. Yet the most direct contact which the average citizen has with government is in his home community and county.

The numerous units of local government are important because they are close to the people and afford the most direct opportunity for participation by citizens in public affairs. The real testing ground for democracy is at the local level.

Another indication of the importance of the county is found in the part it plays in the general scheme of state government. The county in South Dakota is, by all odds, the most important unit for the local administration of governmental policies in which the state has a primary interest. As such, it is assigned functions and responsibilities which it must discharge in the manner prescribed by the state and with respect to which the county officials may exercise little or no discretion. In addition, counties are permitted to engage in a variety of activities at the discretion of the governing body. They are authorized, for example, to maintain parks and libraries, support fairs, carry out animal and insect control measures, furnish agricultural extension services, co-operate with other units of government in the purchase and operation of fire fighting equipment and levy a tax for snow removal purposes.

Noteworthy among the functions required to be performed by the county are such time-honored activities as judicial administration, law enforcement, election administration, land title recording, tax collection, land surveying and common school supervision. Conspicuously active in the discharge of these functions are such constitutionally established officers as the county judge, clerk of courts, sheriff, states attorney, coroner, auditor, register of deeds, treasurer and county superintendent of schools. These popularly-elected officers, along with such appointive officers as are necessary, work with the governing body to provide the ever-expanding services which county governments render to the public.

Undoubtedly the most important agency in the entire county government is the board of county commissioners, which under South Dakota law may consist of either three or five members.

■ Introduction

Popularly elected for four-year terms, the members of the board constitute collectively the basic policy determining body. Although the board is restricted by state law in its determination of policy involving the administration of the services required to be carried on in the county, it has a high degree of discretion in those fields of action which are permissive. Thus the board may decide whether or not the county shall maintain a park or a library, or whether a veteran's service office shall be established. It fixes the appropriations for all county activities which in itself is a highly significant policy function.

The board is also the nearest thing to a central executive authority existing in South Dakota's county governments. As an administrative and supervisory agency, its influence is felt throughout the entire structure. Although its appointive power is limited, all appointments made by the other elective officers are subject to its approval. It supervises the purchase and care of county government, approves bills against the county, and audits the books of the county officers. In point of fact, the board plays some part in the administration of almost every county function.

It is but realistic to recognize that today, county government is extremely important in terms of the services it renders and the costs of its operation. Within the framework of our concept of local self-government, it would appear that in the future as in the past, the effectiveness of this area of government will depend in considerable measure on the work of the persons who make up its governing boards and that public understanding of the problems facing county commissioners can be of great significance in aiding these officials in improving the quality of government.
... "

In 1964 and 1966, two constitutional amendments were approved by the electorate to provide for the consolidation of two or more county offices with approval of the county voters, to abolish the office of the county surveyor and to abolish the office of county superintendent of schools with voter approval as provided by the legislature.

The 1986 legislature authorized an optional form of county government. In addition to the traditional county commissioner form of government, a county may adopt a county commissioner-appointed county manager form of government. Under this form of government the county commission is the legislative governing body. The county manager is the chief administrative officer of the county and is responsible for the proper administration of the affairs of county government. Among other duties, the county manager is responsible for preparing and implementing the county budget. The voters of a county must approve the adoption of a county commissioner-county manager form of government.

Other government operation options include charters and home rule. The first plan would allow the people to choose a charter from several alternatives that have previously been drawn up by the legislature. At least nine states, including South Dakota, have adopted county home rule amendments that permit a county to draw up its own charter subject to certain limitations. Home rule allows local governments to determine the organization, procedure and powers of their own governments, and a maximum of freedom from control by either the legislature or state administrative officers. Both optional charters and home rule require extensive changes in state constitutions and laws. Few counties in the states where optional charters and home rule are permitted

have taken advantage of the opportunities.

In addition, South Dakota law allows up to 7 commissioners, however, no county currently has more than 5.

The salaries of all elected county officials vary from one county to another in relation to the population of each county. South Dakota law prescribes the minimum salaries for elected county officials based on county population.

County Officials (alphabetically) and the Services They Provide

AUDITOR -- The county business manager. The Auditor is responsible for commissioner proceedings, agendas and records, accounting records, revenue and expense reports, voter registration and elections. Businesses apply for beer and liquor licenses with the Auditor. The Auditor also figures real estate and mobile home taxes and handles county bid lettings. In many cases, the Auditor also manages medical indigent claims and employee drug and alcohol testing programs. The Auditor and Treasurer work in conjunction to pay county bills.

CLERK OF COURTS -- The Clerk of Courts in each county maintains the official files on all cases brought before the court. Clerks of Court are also empowered to act as lay magistrates if so appointed. This office also deals with matters including child support and restitution, fines, small claims, divorces, civil court, adoption and passports.

COMMISSIONERS -- Often scrutinized is the important role of the men and women who shoulder the responsibility of county government through service as a County Commissioner. The acts of county commissioners control the destiny, prosperity and general well-being of the residents and businesses of South Dakota. Each county has a board of 3-5 Commissioners who are elected to staggered terms of 4 years. They are responsible for the oversight of every service that each county office provides. In general, County Commissioners are responsible for the care and preservation or sale of all county property; the audit of accounts of all officers having the care, management, collection or disbursement of any money belonging to the county; levying taxes; construction and repair of bridges; to open, lay out, vacate and change highways; to purchase or acquire grounds for courthouse, jail or other building sites; to establish election precincts in the county and appoint the judges of election; and as a board of equalization, to equalize the assessment roll of the county in the manner provided by law; to furnish necessary equipment and supplies for county offices; to superintend the fiscal concerns of the county and secure their management in the best possible manner; to regulate the transaction of business in alcoholic beverages; to make ordinances prohibiting the sale or exhibition of any obscene matter; and for zoning, solid waste and water management along with a host of other issues that arise affecting the county.

CONSERVATION OFFICER -- A conservation district focuses on natural resource problems and solutions. They cannot levy taxes, but can request support from the county and state. They implement conservation practices that keep air, land and water healthy and productive; conserve and restore wetlands, protect groundwater resources; plant trees and other land covers to hold soil in place, clean the air, provide cover for wildlife and beautify neighborhoods.

Introduction

CORONER -- Examines bodies and circumstances surrounding death. Provides for delivery of body to family or for burial if the deceased has no family.

DIRECTOR OF EQUALIZATION -- County Directors of Equalization are appointed to their office by the board of county commissioners. Their responsibility is to assess all real property in the county for property tax purpose. By law, the assessed value must be its full and true or market value. Persons dissatisfied with their assessment may appeal to their local board of equalization, county board of equalization and ultimately a state review board or directly to circuit court.

EMERGENCY MANAGER -- Working closely with federal and state officials, the County Civil Defense/Emergency Management Director plans for and manages disasters. In many counties, this office is combined with another county office.

HIGHWAY SUPERINTENDENT -- The County Highway Superintendents, subject to the approval of the Board of County Commissioners, are in charge of constructing, maintaining and repairing all of South Dakota's 24,000 miles of county roads and 3,500 bridges. Highway Superintendents, in many cases, also maintain the township roads in their county. In each county, the Highway Superintendent is charged with the direction and supervision of work and keeps record of costs. The Highway Superintendent must approve all bills associated with county road maintenance before payment. Payment for work on county road systems is made from the county road and bridge fund.

JUDGE -- Circuit court judges are elected for 8-year terms by the voters of the circuit they serve. They hear both civil and criminal cases. Circuit judges rule on cases without a jury. In cases tried before a jury, the judge rules on what evidence may be considered by jurors in reaching their verdict. They also may hear contested small claims and misdemeanor cases and preliminary hearings in criminal cases. Each circuit is staffed by both law trained and lay magistrates who act as judges in criminal cases involving less serious crimes and in civil cases involving small amounts of money.

NURSE -- The Board of County Commissioners of any county may at any time employ nursing personnel.

REGISTER OF DEEDS -- The county Register of Deeds issues and files marriage licenses, birth and death certificates, burial permits, real estate transactions (including deeds, mortgages and mortgage transfers), federal and state tax liens, state unemployment tax, military discharge records, and business licenses. The Register of Deeds is also responsible for recording all liens, cancelling liens, issuing duplicate titles, survey plat certificates and county welfare liens. The Register of Deeds is the official county record keeper.

SHERIFF -- The county sheriff assures that all the laws of the state are executed and enforced. He is also responsible for pursuing and apprehending all felons, executing all writs, warrants and other process from any court or magistrate. He may contain or dispose of any dangerous animal.

STATES ATTORNEY -- The States Attorney, elected by the voters of each county, appears in all

courts of the county to prosecute or defend on behalf of the state or county, all actions or proceedings, civil or criminal, in which the state or county is interested or a party.

TREASURER -- The Treasurer is the collector of taxes and has the duty to receive all money belonging to the county from whatever source (taxes, fines, etc.). The Treasurer maintains accounting records and is responsible for county fund investment. The Treasurer and Auditor work in conjunction to pay county bills. The county Treasurer is responsible for issuing motor vehicle registration and licenses along with reporting them to the SD Dept. of Motor Vehicles.

VETERANS SERVICES OFFICER -- The Board of Commissioners in each county appoints a veterans services officer (usually part-time or as part of another county office) to assist veterans and their families in accessing benefits available through the United States Veterans Administration.

WEED & PEST SUPERVISOR -- Under the administration of the SD Dept. of Agriculture, each county Board of Commissioners appoints or provides for the election of a county weed and pest board consisting of 5-7 members, one of which must be a Commissioner. They may spend county funds to remove weeds and pests and collect the money from the landowner.

WELFARE DIRECTOR -- The County Welfare Official is responsible for procuring financial assistance for the needy through federal, state or county aid programs. Counties may provide emergency funds for heat, burial, medical, housing, food, utilities etc. In many cases, the County Auditor also acts as the County Welfare Official, or the Welfare office is combined with another county office such as Veterans Services.

County Revenue

The money used by counties in South Dakota to finance their activities is obtained primarily from taxes levied on land and structures -- in other words, Property Taxes. It should be noted that South Dakota's 66 counties receive only about 26% of the total property taxes paid by the public. Schools receive about 54% of property taxes, municipalities receive about 13%, townships receive about 2% and special taxing districts receive about 5%. The 1995 legislature placed a cap on property tax revenue increases. Counties are prohibited from increasing property tax revenues by more than the consumer price index or 3%, whichever is lower. Other revenue sources for county services include license plate fees, wheel tax and recording fees.

County Expenditures

Counties maintain approximately 35,000 miles of roads and 4,000 bridges on county and local road systems, an area where they spend a considerable amount of their annual budgets. County roads are a necessary part of any county infrastructure. Another large line item of county budgets is spent on law enforcement, jails and court costs with no real possibility of any substantial savings without first reducing crime (virtually impossible). Miscellaneous services such as extension, conservation, civil defense and emergency management services consume county funds as well as welfare and care for the medically indigent, another area where cost reduction is not likely. The care of county buildings, grounds and operation of county offices, including salaries of officials and elections are other important county expenditures.

Introduction

Counties and Regional Planning Districts

Counties have shown a willingness to cooperate among themselves and with municipalities through regional planning and development districts. Encouraged through the federal Model Rural Development program, the state was divided into six planning districts during the 1970s for certain state and federal purposes. In some instances, state and federal programs are managed through these sub-state regions. The counties and municipalities within these regions have formed Planning and Development Districts composed of representatives of these local governments. The staffs are available to member governments to aid them in their dealings with the state and federal governments as well as to help coordinate planning and programs developed on a regional basis. Their offices are in Sioux Falls, Rapid City, Aberdeen, Yankton, Pierre and Watertown.

South Dakota PLANNING DISTRICTS MAP



Today, citizens depend on county government more than ever before, which makes it more important than ever that qualified, dedicated people run for the office of county commissioner.

The work of an elected county official involves a more complex environment than your predecessors faced a generation, or even a few years ago. Most counties today are involved in far more than such traditionally mandated services as public records, law enforcement and tax collection. Today's county government juggles priorities and concerns in such areas as housing, environmental protection, transportation and economic development.

Commissioners in South Dakota come from a variety of backgrounds. Farmers, teachers, business people, lawyers, homemakers and retired citizens have all been elected county commissioners. No particular job experience or education is known to be the best preparation for success as a commissioner. Familiarity with some aspects of government, budgeting, personnel management, communication, and the law can be useful. There are two things that are essential requirements for being an effective county commissioner though - knowledge of your community and ethical behavior.

Once elected, South Dakota county commissioners are offered workshops to become familiar with the job by the South Dakota Association of County Commissioners (SDACC).

What are Some Responsibilities of the County Commission?

Powers are limited by state law, but commissioners may exercise broad authority in these and other areas:

- Provide for law enforcement and correctional services in the county;
- To levy a tax not exceeding the amount authorized by law, and to liquidate indebtedness;
- To construct and repair bridges; maintain county roads; to purchase or acquire grounds for courthouse, jail, or other building sites, locate or relocate the courthouse on such sites;
- To establish election precincts in its county and appoint the judges of election; and, as a board of equalization, to equalize the assessment roll of its county in the manner provided by law;
- To superintend the fiscal concerns of the county and secure their management in the best possible manner;
- To establish, promote and support community development;
- To develop, enact and enforce building codes;
- To protect the general health and safety of county residents

No counties provide exactly the same set of services. When you look at the types of services that counties choose to provide, you see a broad range, including road maintenance, recycling programs, landfills, hospitals and/or nursing homes, libraries, parks and recreation, fire protection, and water and sewer facilities. For some counties, providing such services is relatively new and reflects the shifting responsibilities of formerly rural counties that now must meet the demands of growing suburban populations.

■ **Introduction**

Because a number of other county officials are elected directly by the people of the county, the commissioners cannot directly control all county policies. Even though they have to budget for these offices, county commissioners have little or no say in how they are run. Many citizens do not understand that their commissioners' power is limited in this way. These are some of the other elected offices of county government: county auditor, treasurer, register of deeds, sheriff, and coroner. Also, school systems in South Dakota operate independently of the county governments.

Duties of a County Commissioner

County leaders must be versatile. Of the different levels of government, local government has the most immediate effect on people's lives because it is so close to where they live. In a single day you may find yourself leading, facilitating, convening, brokering, making tough decisions, and developing consensus.

Talking with constituents is a big part of the job. They may call you at home, collar you at the movies or at the hardware store. Besides responding to constituent requests, most elected officials want to be out and about, where they stay informed on what is happening in their county. You will soon learn that on controversial issues you sometimes hear from supporters, but you are certain to hear from opponents. As an elected official, you have to make a decision that is in the best interest of the entire county.

Even a lifetime in government cannot prepare you for every curve ball the political world will pitch. To be ready for the challenges, you should:

- Have a vision for the county's future;
- Keep an open mind;
- Maintain high ethical standards;
- Know the issues;
- Know your constituents and the people who will work with you;
- Focus on what is best for the county;
- Be honest with the public, the media and other officials;
- Have confidence in your qualifications;
- Separate your emotions from your responsibilities.

A commissioner who does a good job provides true public service and is a leader in the community

Some Problems Facing County Government Today

Mandates

As a commissioner, one of the first things you discover is that many decisions affecting your term of office have already been made. One reason for this involves the issue of mandates.

Mandates are legal requirements imposed by federal and state governments. Local government mandates are often passed without funding by state and federal lawmakers. In these cases, local governments may have to pay the cost of implementing the mandate. Some examples of unfunded mandates are those setting requirements for public health, welfare and social services, treat-

ment of prisoners, providing court-appointed legal representation for those who cannot afford it and voter registration.

When commissioners begin working on the county budget, many of the expenditures have already been determined by mandates that must be met by certain deadlines. Because the end-of-year budget must balance, only a portion of the budget is left to pay for everything else that county citizens want. Make sure you know what is legally mandated by the state and federal government before promising to eliminate certain programs and services.

Revenue Sources

Raising revenue to pay for all the services that county government performs is one of the biggest challenges facing county commissioners. Citizens often expect government to deliver more and better services to meet challenging community needs but they are rarely enthusiastic about paying the bill. Because raising taxes is never popular, counties are always looking at ways to spread the tax burden by expanding their source of revenue or finding new ones to keep up with increasing demands. South Dakota law limits the opportunities that counties have to raise revenue, so commissioners are not always free to take any approach that seems attractive. The county property tax accounts for about 58 - 70% percent of all county resources. At the same time, commissioners need to find ways to conduct government business more efficiently and eliminate waste so that tax dollars are spent wisely.

Ethics in County Government

The legitimacy of a democratic government rests on its ability to gain the trust of its citizens. Corrupt government officials and staff who fail to uphold basic standards of ethics completely undermine the role of public service. At the core of decisions, officials are expected to keep the interest of the public—not themselves—in mind.

While the most prominent cases of public corruption have occurred on the federal and state levels, county governments are not exempt from adhering to ethical guidelines. In many cases, counties have less oversight and accountability making it easier to get away with unethical practices. For that reason, it can be very helpful for counties to utilize codes of ethics to increase accountability and principled conduct.

Why Do Counties Need a Code of Ethics?

Most people interpret ethical conduct in black and white—there are right things to do and then there are wrong things. However, upon entering into public office, many public officials quickly realize that a vast array of ethical dilemmas fall into a menacing “gray” area where the “right thing to do” is not easily apparent. Making the right choice in a difficult situation is not always so straightforward. In many instances, just the appearance of wrongdoing, whether illegal or unethical activity has actually occurred, can create major problems for county officials.

When making a difficult ethical decision, government officials should be able to ask themselves, “Would I be willing to defend my actions on the front page of the newspaper, and could I do so successfully?” A code of ethics for a county or local municipality can be a useful tool in eliminating ethical confusion and misunderstandings, providing a concrete framework for acceptable conduct.

How should a Code of Ethics be written?

Before determining what content should be integrated into a Code of Ethics, the purpose of the code must be decided. Is the code designed to inspire officials or to simply regulate the behavior of officials? Different kinds of codes are designed to serve different purposes. For some counties, a “statement of values” or a “mission statement” are sufficient means of portraying standards of ethics.

However, if it is clear that a broader, more detailed code of ethics is necessary, then one should be constructed in the proper form. The most common and effective layout divides the code into two parts. First, an aspirational section frequently includes a preamble and outlines the ideals of the county. The second section typically sets forth the rules or guidelines that county officials and employees are expected to uphold.

Once these two sections have been drawn up, the enforcement process must be developed. Will there be penalties for violating the code? If so, how will they be administered? Additionally, counties must look at how the code will be implemented and advertised to the staff, as well as to county residents.

■ *Code of Ethics*

What topics should a Code of Ethics attempt to address?

Transacting business is one of the most common areas included. This is generally where most citizen complaints are “conflicts of interest” issues. A county may contract or do business with an employee’s or county official’s business as long as they are not involved in the award of the business contract.

Conflicts in Voting Procedures can be another problematic area. This applies specifically to county commissioners and board members and generally says that they should abstain from a vote on issues on which they would profit or enhance a relationship.

Acceptance of gifts is a touchy area. The inclusion of this area in a code generally defines a gift either by its economic value or as a promise for future benefits. Codes usually state that gifts are prohibited if official acts have or could occur.

Exploitation of Official Position is included in a code to prohibit elected officials from using their elected positions to obtain special privileges and exemptions.

Prohibition on the use of confidential information is always included to prohibit elected officials and other county employees from accepting payment to divulge information or from using confidential information for their own personal gain or benefit.

Financial Disclosure Reports are also typically included. This financial disclosure report, filed with the Secretary of State office, usually has a required form and includes an itemized source of income statement for the official. This regulation also requires candidates for elective office to satisfy financial disclosure regulations.

Outside employment rules are also often included in a code of ethics. This section of the code usually prohibits county employees from receiving payment for the same services they perform for the county from any other source. It also often includes a prohibition of certain kinds of outside employment for county employees.

Many more advanced codes include a *two-year rule*. This rule states that elected officials cannot lobby the county for any purpose, including doing business, for a period of two years after the end of their time in office.

Are Codes of Ethics always enough to thwart corruption?

Although ethics codes provide concrete rules for conduct in public office, they must not only be taken to heed by the officials themselves but also examined by an outside audience to ensure accountability. Oversight of ethical conduct is critical to the success of any sort of ethical guidelines. Depending on the size of the county and its history of unethical behavior, this “ethics inspector” can be anyone from another county official, staff member, or even a public citizen. Any person can report an ethics violation if there are sound rules in place.

Sample Code of Ethics

Preamble

The National Association of Counties (NACo) is committed to the highest standards of conduct by and among county officials in the performance of their public duties. Individual and collective adherence to high ethical standards by public officials is central to the maintenance of public trust and confidence in government.

While county officials agree on the need for proper conduct, they may experience personal conflict or differing view of values or loyalties.

In such cases the principles contained in this Code of Ethics provide valuable guidance in reaching decisions which are governed, ultimately, by the dictates of the individual conscience of the public official and his or her commitment to the public good.

Certain of these ethical principles are best expressed as positive statements: actions which should be taken; courses which should be followed; goals which should permeate both public and private conduct. Other principles are expressed as negative statements: actions to be avoided and conduct to be condemned.

The Code of Ethics for County Officials has been created by and for elected county officials. However, these principles apply to the day to day conduct of both elected and appointed officials and employees of county government.

_____ County recognizes that this Code of Ethics should serve as a valuable reference guide for all those in whom the public has placed its trust.

Ethical Principles

The ethical county official should:

- Properly administer the affairs of the county.
- Promote decisions which only benefit the public interest.
- Actively promote public confidence in county government.
- Keep safe all funds and other properties of the county.
- Conduct and perform the duties of the office diligently and promptly dispose of the business of the county.
- Maintain a positive image to pass constant public scrutiny.
- Evaluate all decisions so that the best service or product is obtained at a minimal cost without sacrificing quality and fiscal responsibility.
- Inject the prestige of the office into everyday dealings with the public employees and associates.
- Maintain a respectful attitude toward employees, other public officials, colleagues and associates.
- Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of the county.
- Faithfully comply with all laws and regulations applicable to the county and impartially apply them to everyone.

The ethical county official should not:

- Engage in outside interests that are not compatible with the impartial and objective performance of his or her duties.
- Improperly influence or attempt to influence other officials to act in his or her own benefit.
- Accept anything of value from any source which is offered to influence his or her action as a public official.
- The ethical county official accepts the responsibility that his or her mission is that of servant and steward to the public.

A guide to South Dakota's Open Meetings Law *(Revised 2017)*

WHAT IS SOUTH DAKOTA'S OPEN MEETINGS LAW?

South Dakota's open meetings law embodies the principle that the public is entitled to the greatest possible information about public affairs and is intended to encourage public participation in government. SDCL 1-25-1 requires that official meetings of public bodies must be public and notice is to be given of such meetings 24 hours in advance of the meetings. The statute defines an "official meeting" as one where a quorum of the public body is present and at which official business of the body is discussed or decided, or where public policy is formulated. **Openness in government is encouraged.**

WHO DOES THE OPEN MEETINGS LAW APPLY TO?

The open meetings law applies to all public bodies "of the state or its political subdivisions" that exercise "sovereign power derived from state law." SDCL 1-25-1. This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to actually exercise sovereign power. Although no court decisions have been issued on the subject, this probably does not include bodies that are not created by statute, ordinance, or resolution, or that serve only in an advisory capacity. The state Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

Yes. The open meetings law allows meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. In addition, for teleconferences where less than a quorum is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting. All votes shall be taken by roll call.

HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

SDCL 1-25-1.1 requires that all public bodies except the state and each state board, commission, or department as provided in § 1-25-1.3, prominently post a notice and copy of the proposed agenda at the public body's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the public body has its own website, the notice must be posted on the public body's website upon dissemination of the notice. For special or rescheduled meetings, public bodies must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually. SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State, and each state board, commission, or department to give notice by posting a proposed

agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include the day the agenda is posted, or any weekend or legal holiday). Each state board, commission, or department is also required to give notice of a public meeting by posting its proposed agenda on <http://boardsandcommissions.sd.gov>.

WHO ARE LOCAL NEWS MEDIA?

There is no definition of “local news media” in SDCL ch. 1-25. “News media” is defined in SDCL 13-1-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that “local news media” is all news media – broadcast and print – that regularly carry news to the community.

CAN PUBLIC MEETINGS BE RECORDED?

Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings as long as the recording is reasonable, obvious, and not disruptive.

WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

SDCL 1-25-2 allows a public body to close a meeting for the following purposes: 1) to discuss personnel issues pertaining to officers or employees; 2) consideration of the performance or discipline of a student, or the student’s participation in interscholastic activities; 3) consulting with or reviewing communications from legal counsel about proposed or pending litigation or contractual matters; 4) employee contract negotiations; or 5) to discuss marketing or pricing strategies of a publicly-owned competitive business.

The statute also recognizes that executive session may be appropriate to comport with other laws that require confidentiality or permit executive or closed meetings. Federal law pertaining to students and medical records will also cause school districts and other entities to conduct executive sessions or conduct meetings so as to refrain from releasing confidential information. Meetings may also be closed by cities and counties for certain economic development matters.

SDCL 9-34-19. Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances. Any official action based on discussions in executive session must, however, be made at an open meeting.

WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

Motions for executive sessions must refer to the specific state or federal law allowing for the executive session i.e. “pursuant to SDCL 1-25-2(3).” Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the motion might state “motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter,” or “motion to go into executive session pursuant to SDCL 1-25-2(3) for the purposes of consulting with legal counsel.”

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken.

Board members could be held personally liable for the results of an official vote taken illegally during an executive session. For example, a contract approved only during an executive session could be found void and the board members could be required to repay any public funds spent under the contract.

WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAW OCCUR?

Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both or (b) a reprimand by the Open Meeting Commission (“OMC”). The same penalties apply if the agenda for the meeting is not properly posted or other open meeting violations occur.

Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void. It could even result in personal liability for members of the governing body involved, depending upon the action taken.

HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION (“OMC”)?

Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed notarized complaint is made under oath, and any necessary investigation is conducted, the State’s Attorney may (a) prosecute the case as a misdemeanor, (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State’s Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General’s Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General. <http://atg.sd.gov/>.

WHAT DOES THE TERM “SOVEREIGN POWER” MEAN?

The open meetings law does not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising “sovereign power” it should consult with legal counsel.

MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning the governing body’s anticipated business. Typically the public body adopts the final agenda upon convening the meeting. At this time, the governing body may add or delete agenda items and may also change the order of business. In 2012, the South Dakota Supreme Court affirmed a South Dakota Circuit Court

decision which held that a preliminary agenda may be amended when the board takes action to formally adopt the meeting agenda. See *Molden v. Grant-Deuel School Dist.* 25-3, Order Directing Issuance of Judgment of Affirmance, So. Dak. Sup. Ct. # 26325, October 9, 2012. New items cannot be added after the agenda has been adopted by the governing body. Public bodies are strongly encouraged to provide 24 hours notice of all agenda items so as to be fair to the public and to avoid dispute. For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

ARE EMAIL DISCUSSIONS “MEETINGS” FOR PURPOSES OF THIS LAW?

The definition of an “official meeting” in SDCL 1-25-1 references teleconferences. The definition of a “teleconference” in SDCL 1-25-1.2 includes the exchange of information via the internet or any other electronic medium. The analysis of these two definitions leads to the conclusion that email discussions that include a quorum of a public body and which discuss the official business of that body could be considered “meetings” for purposes of the open meetings laws. Email participation in scheduling or similar activity would not, under this analysis, constitute a public meeting.

WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

SDCL 1-25-1.4 requires state boards, commissions, or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-1.16 requires that any other public body must post meeting materials on the public body’s website (where one exists), or make those materials available to the public at least twenty-four hours prior to the meeting or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 business days after the meeting (or made available on the website for the public body within five business days).

These laws are in addition to any specific requirements for public bodies (i.e., publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of public records laws contained in SDCL ch. 1-27 are handled by separate procedures in SDCL 1-27-35, et.seq. rather than the open meeting procedures described above. Violations of SDCL 1-27-1.16 and 1-27-1.17 are also Class 2 misdemeanors.

WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

Task forces and committees that exercise “sovereign power” and are created by statute, ordinance, or proclamation are required to comply with the open meetings law. SDCL 1-25-1. Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only may not be subject to the open meetings law, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.

PERTINENT S.D. OPEN MEETINGS STATUTES

1-25-1. OPEN MEETINGS. The official meetings of the state, its political subdivisions, and any public body of the state or its political subdivisions are open to the public unless a specific law is cited by the state, the political subdivision, or the public body to close the official meeting to the public. For the purposes of this section, a political subdivision or a public body of a political subdivision means any association, authority, board, commission, committee, council, task force, school district, county, city, town, township, or other agency of the state, which is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law. For the purposes of this section, an official meeting is any meeting of a quorum of a public body at which official business of that public body is discussed or decided, or public policy is formulated, whether in person or by means of teleconference.

It is not an official meeting of one political subdivision or public body if its members provide information or attend the official meeting of another political subdivision or public body for which the notice requirements of § 1-25-1.1 have been met.

Any official meeting may be conducted by teleconference as defined in § 1-25-1.2. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference shall be taken by roll call.

If the state, a political subdivision, or a public body conducts an official meeting by teleconference, the state, the political subdivision, or public body shall provide one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, which has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to an executive or closed meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meet solely for purposes of implementing previously publicly-adopted policy, carrying out ministerial functions of that township, district, or municipality, or undertaking a factual investigation of conditions related to public safety, the meeting is not subject to the provisions of this chapter. A violation of this section is a Class 2 misdemeanor.

1-25-1.1. PUBLIC NOTICE. All public bodies, except the state and each state board, commission, or department as provided in § 1-25-1.3, shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any meeting, by posting a copy of the notice, visible to the public, at the principal office of the public body holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the public body's website upon dissemination of the notice, if such a website exists. For special or rescheduled meetings,

the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media, who have requested notice. For special or rescheduled meetings, all public bodies shall also comply with the public notice provisions of this section for regular meetings to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.2. TELECONFERENCE DEFINED. For the purpose of this chapter, a teleconference is information exchanged by any audio, video, or electronic medium, including the internet. 1-25-1.3. Public notice OF state meetings. The state and each state board, commission, or department shall provide public notice of a meeting by posting a copy of the proposed agenda at the principal office of the board, commission, or department holding the meeting. The proposed agenda shall include the date, time, and location of the meeting, be visible, readable, and accessible to the public. The agenda shall be posted at least seventy-two hours before the meeting is scheduled to start according to the agenda. The seventy-two hours does not include the day the agenda is posted nor saturday, sunday, or legal holidays. The notice shall also be posted on a state website, designated by the commissioner of the bureau of finance and management. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each state board, commission, or department shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a class 2 misdemeanor.

1-25-2. EXECUTIVE OR CLOSED MEETINGS. Executive or closed meetings may be held for the sole purpose of:

- 1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term “employee” does not include any independent contractors.
- 2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;
- 3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;
- 4) Preparing for contract negotiations or negotiating with employees or employee representatives;
- 5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, where public discussions would be harmful to the competitive position of the business.

However, any official action concerning such matters shall be made at an open official meeting. An executive or closed meeting shall be held only upon a majority vote of the members of such body present and voting, and discussion during the closed meeting is restricted to the purpose specified in the closure motion. Nothing in 1-25-1 or this section may be construed to prevent an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a Class 2 misdemeanor.

9-34-19. EXECUTIVE SESSIONS (MUNICIPAL AND COUNTIES). Any documentary material or data compiled or received by a municipal corporation, county, or an economic development corporation receiving municipal or county funds, for the purpose of furnishing assistance to a business, to the extent that such material or data consists of trade secrets or commercial or financial information regarding the operation of such business, is not a public record. Any discussion or consideration of such trade secrets or commercial or financial information by a municipal corporation or county may be done in executive session closed to the public.

1-25-6. DUTY OF STATE’S ATTORNEY. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A2-1, the state’s attorney shall take one of the following actions:

- (1) Prosecute the case pursuant to Title 23A;
- (2) Determine that there is no merit to prosecuting the case. Upon doing so, the state’s attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or
- (3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.

1-25-6.1. DUTY OF STATE’S ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state’s attorney shall take one of the following actions:

- (1) Prosecute the case pursuant to Title 23A;
- (2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish abstracts of the information as provided by § 1-25-6;
- (3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or
- (4) Refer the complaint to another state’s attorney or to the attorney general for action pursuant to § 1-25-6.

1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state’s attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state’s attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state’s attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member’s vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state’s attorney, and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state’s attorney or the attorney gen-

eral. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC MEMBERS. The South Dakota Open Meeting Commission shall be comprised of five state's attorneys appointed by the attorney general. Each commissioner shall serve at the pleasure of the attorney general. A chair of the commission shall be chosen annually from the membership of the commission by a majority of its members.

1-25-9. OMC CONFLICTS. No member of the commission may participate as part of the commission or vote on any action regarding a violation of this chapter if that member reported or was involved in the initial investigation, is an attorney for anyone who reported or was involved in the initial investigation, or represents or serves as a member of the governmental entity about whom the referral is made. The provisions of this section do not preclude a commission member from otherwise serving on the commission for other matters referred to the commission.

1-27-1.16. MEETING PACKETS AND MATERIALS. If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.17. DRAFT MINUTES. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.18. WORKING GROUP REPORTS. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.

Parliamentary Procedure

What Is Parliamentary Procedure?

It is a set of rules for conduct at meetings, that allows everyone to be heard and to make decisions without confusion.

Why is Parliamentary Procedure Important?

Because it's a time tested method of conducting business at meetings and public gatherings. It can be adapted to fit the needs of any organization. Today, Robert's Rules of Order newly revised is the basic handbook of operation for most clubs, organizations and other groups. So it's important that everyone know these basic rules!

Organizations using parliamentary procedure usually follow a fixed order of business. Below is a typical example:

1. Call to order.
2. Roll call of members present.
3. Reading of minutes of last meeting.
4. Officers reports.
5. Committee reports.
6. Special orders --- Important business previously designated for consideration at this meeting.
7. Unfinished business.
8. New business.
9. Announcements.
10. Adjournment.

The method used by members to express themselves is in the form of moving motions. A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

1. Call to order.
2. Second motions.
3. Debate motions.
4. Vote on motions.

There are four Basic Types of Motions:

1. *Main Motions*: The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.
2. *Subsidiary Motions*: Their purpose is to change or affect how a main motion is handled, and is voted on before a main motion.
3. *Privileged Motions*: Their purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
4. *Incidental Motions*: Their purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

How are Motions Presented?

1. Obtaining the floor
 - a. Wait until the last speaker has finished.
 - b. Rise and address the Chairman by saying, "Mr. Chairman, or Mr. President."
 - c. Wait until the Chairman recognizes you.
2. Make Your Motion
 - a. Speak in a clear and concise manner.
 - b. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ...".
 - c. Avoid personalities and stay on your subject.
3. Wait for Someone to Second Your Motion
4. Another member will second your motion or the Chairman will call for a second.
5. If there is no second to your motion it is lost.
6. The Chairman States Your Motion
 - a. The Chairman will say, "it has been moved and seconded that we ..." Thus placing your motion before the membership for consideration and action.
 - b. The membership then either debates your motion, or may move directly to a vote.
 - c. Once your motion is presented to the membership by the chairman it becomes "assembly property", and cannot be changed by you without the consent of the members.
7. Expanding on Your Motion
 - a. The time for you to speak in favor of your motion is at this point in time, rather than at the time you present it.
 - b. The mover is always allowed to speak first.
 - c. All comments and debate must be directed to the chairman.
 - d. Keep to the time limit for speaking that has been established.
 - e. The mover may speak again only after other speakers are finished, unless called upon by the Chairman.
8. Putting the Question to the Membership
 - a. The Chairman asks, "Are you ready to vote on the question?"
 - b. If there is no more discussion, a vote is taken.
 - c. On a motion to move the previous question may be adapted.

Voting on a Motion:

The method of vote on any motion depends on the situation and the by-law of policy of your organization. There are five methods used to vote by most organizations, they are:

1. *By Voice* -- The Chairman asks those in favor to say, "aye", those opposed to say "no". Any member may move for a exact count.
2. *By Roll Call* -- Each member answers "yes" or "no" as his name is called. This method is used when a record of each person's vote is required.
3. *By General Consent* -- When a motion is not likely to be opposed, the Chairman says, "if there is no objection ..." The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.
4. *By Division* -- This is a slight verification of a voice vote. It does not require a count unless the chairman so desires. Members raise their hands or stand.
5. *By Ballot* -- Members write their vote on paper, this method is used when secrecy is desired.

There are two other motions that are commonly used that relate to voting.

1. *Motion to Table* -- This motion is often used in the attempt to "kill" a motion. The option is always present, however, to "take from the table", for reconsideration by the membership.
2. *Motion to Postpone Indefinitely* -- This is often used as a means of parliamentary strategy and allows opponents of motion to test their strength without an actual vote being taken. Also, debate is once again open on the main motion.

Parliamentary Procedure is the best way to get things done at your meetings. But, it will only work if you use it properly.

1. Allow motions that are in order.
2. Have members obtain the floor properly.
3. Speak clearly and concisely.
4. Obey the rules of debate.

Most importantly, BE COURTEOUS.

County Budgets

The budget is one of the most important documents a county government prepares because it identifies services to be provided and how they are to be financed. Almost every decision, activity and program in county government can be expressed in the financial language of the budget. To fully understand county budgets, it is essential to know the critical parts of the budget document, the primary budget players, the budget process, and how the budget is a tool for governing.

Contingencies - SDCL 7-21-6.1 allows for a contingency to be adopted which shall not exceed five percent of the total county budget.

The contingency is reported as a line item of the General Fund. It is not a fund in and of itself. You may never spend directly against the contingency account. The contingency is not a fund, nor is it cash. It is budget authority which is the right to spend money.

By resolution of the board, the commissioners may transfer contingency amounts to other lines where budget increases are needed. (SDCL 7-21-32.2) Contingency transfers may be to:

- a. Other line items of the General Fund
- b. Newly created line items of the General Fund
- c. Various line items of other funds

Budget Overexpenditures - SDCL 7-21-24 states that you cannot expend money unless you first have a budget provided. It takes good communication to prevent budget overdrafts. Communication is handled through the distribution of monthly status reports. The detail and types of reports to be received are up to each board. The review of this data is a necessary function of all county accounting systems.

Automatic Supplements - Statute provides a couple of situations to utilize shortcut procedures to increase the budget.

They are:

- SDCL 7-21-20.1 for state and federal grants
- SDCL 7-21-32.1 for unanticipated reimbursements

In both of these cases the budget may be increased just by board approval. Make sure the budget increase occurs in the same year as the corresponding expenditure.

Supplements - There are two types of formal budget supplements provided by law. They are:

- SDCL 7-21-21 supplements for unanticipated disasters
- SDCL 7-21-22 supplements for indispensable functions

The supplement for unanticipated disasters may be adopted "without further notice or hearing". The justification for supplements is limited to a very small scope of disasters catastrophes, etc.

Capital Accumulations - SDCL 7-21-51 allows counties to accumulate monies for special purposes. The purpose must meet ALL of the following conditions:

- a. It is extraordinary in nature
- b. It exceeds the funding ability of a single budget year.
- c. Results in the purchase of services, materials, supplies or equipment.

The resolution initiating this accumulation is passed by 60% of the board and clearly sets forth the purpose for which the funds are being accumulated.

■ *County Budgets*

Transfers- Special consideration must be given to interfund transfers during the budget process. Budgeting for interfund transfers will help plan and provide for the raising of the resources to be transferred. Many counties transfer on an annual basis from the General Fund to other funds.

Surplus Cash - SDCL 7-21-18.1 contains a 40% rule regarding surplus cash in counties. In applying the law to the General Fund, a formula has been devised to compute the amount of surplus cash, if any. The formula starts with the year end cash balance, deducts amounts such as account payable, capital accumulation reserves and amounts designated for the next year's budget. The remaining cash balance is compared to determine if it exceeds 40% of next years budget.

The procedures for completing the budget should be executed in the following manner:

May 15 County auditor prepares "Departmental Budget Request" and "Highway Department Budget Request" worksheets in duplicate, by completing "Amount Expended Prior Year" and "Budget for Current Year" columns. distribute to appropriate department heads or officials. June 1 Respective department heads or officials complete the "Amount Requested" column, return, worksheets to auditor.

June County auditor completes "Cash Balance Estimation Worksheet" for all county funds. Amounts of estimated cash balances determined on this worksheet are recorded on "Budget Worksheets Estimated Revenue" Estimated Cash Balance line for each fund. After determining estimated cash balances. the county auditor completes actual and estimated revenue columns on "Budget Worksheet Estimated Revenue" forms for each budgeted fund. Submit all budget worksheets to board of county commissioners for review. The board completes "Amount Approved" columns on Departmental Budget Request Forms, returns all forms to county auditor. The "Worksheet to Determine Compliance with SDCL 7-21-18.1" should be completed only for the General Fund.

July 30 County auditor prepares "Provisional Budget" form from the Departmental Budget Request Worksheets and previous year's annual budget, submits "Provisional Budget" and supporting worksheet to board for approval.

August County commissioners publish provisional budget and notice of hearing to be held the first Tuesday in September in official newspapers. A second notice of hearing shall be published the following week. Publications must be completed before the first Tuesday in September. (SDCL 7-21-8 and 8.1)

Sept County commissioners must meet before October 1st to adopt provisional budget as the annual budget. Any changes in the provisional budget incorporated into the annual budget shall be published in the minutes of the board. (SDCL 7-21-12). The resolution together with annual budget so adopted shall be signed by members of the board. attested by county auditor and filed with county auditor. (SDCL 7-21-13). The resolution, including tax levies, shall be published in minutes of the board. A copy of annual budget, together with a report of annual levies, are filed with Department of Revenue BEFORE TAXES ARE EXTENDED on the tax lists. A copy of "Departmental Budget Request" worksheets indicating approved budgets are returned to appropriate department heads or officials, and a copy retained by county auditor so appropriate entries can be made in accounting records. It is necessary to retain all budget. estimated revenue and surplus cash balance worksheets for audit purposes.

Questions regarding budget procedure should be directed to:

Rod Fortin .Department of Legislative Audit, (605) 367-5810 or

Wendy Semmler, Department of Revenue and Regulation, 605-773-4923

ABANDONED CEMETERIES Ch 7-26

- ***Cemeteries subject to county maintenance.*** For the purposes of § 7-26-7 the term "abandoned cemetery" means a cemetery, in which no burial of a human body has taken place for five years and which has not been, for a period of five or more years, maintained by any person, church, religious or benevolent society, or any civic organization. **7-26-6**
- ***Regulation and maintenance of abandoned cemeteries--Cemetery board of directors--Appointment--Powers--Reports--Appropriations.*** The board of county commissioners may regulate and maintain abandoned rural cemeteries. The regulation and maintenance shall include, but is not limited to, the mowing and cutting of weeds and grass, the repairing of fences and corrective measures relative to grave markers. The board of county commissioners may appoint a cemetery board of directors to manage abandoned cemeteries or may assign management as well as funding responsibilities to any interested organization or individual. The board shall have the same powers as nonprofit corporations as provided in § 47-22-55 and shall submit annual reports to the board of county commissioners on its activities. Funds necessary to carry out the provisions of this section may be appropriated from the county general fund. **7-26-7**

ACCOUNTING FOR COUNTY FUNDS Ch 7-23

- ***Annual examination and accounting for tax sales and receipts.*** It shall be the duty of the board of county commissioners, at each annual meeting of such board to examine the county treasurer's "tax-sale book" and "stub receipts," and ascertain the amount of redemption money in the treasury and compel such treasurer to account for the same. **7-23-5**
- ***Settlement by county officers for funds received--Payment into treasury.*** All treasurers, sheriffs, clerks, constables, and other officers chargeable with money belonging to any county shall render their accounts to and settle with the board of county commissioners at the time required by law and pay into the county treasury any balance which may be due the county, take duplicate receipts therefor, and deposit one of the same with the county auditor within five days thereafter. **7-23-6**
- ***Adjustment of accounts of delinquent officers--Forfeiture for delinquency.*** If any person thus chargeable shall neglect or refuse to render true accounts or settle, such board shall adjust the accounts of such delinquent according to the best information it can obtain, and ascertain the balance due the county, and order suit to be brought in the name of the county therefor; and such delinquent shall not be entitled to any commission and shall forfeit and pay to the county a penalty of twenty percent on the amount of funds due the county. **7-23-7**

ACCOUNTING RECORDS Ch 7-10

- ***Accounting records maintained--Destruction.*** The county auditor is required to keep and maintain such accounting records as set forth in the accounting manual prescribed by the auditor-general. However, the county auditor may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value. **7-10-2**

ACKNOWLEDGEMENTS Ch 18-4

- ***Officers authorized to take proof or acknowledgment within circuit, county, or municipality.*** The proof or acknowledgment of an instrument may be made anywhere in this state before a judge of the circuit court, a clerk of the circuit court, a magistrate of the circuit

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court, or a United States magistrate. Within a county or municipality for which the officer was elected or appointed, the proof or acknowledgment of an instrument may be made before a county auditor, a register of deeds, a mayor, or a municipal finance officer. **18-4-2**

AIR CARRIER SERVICE Ch 7-18

- ***County authorized to provide funds for air carrier air service.*** A county may pay compensation to a regularly scheduled commercial air carrier to provide basic or enhanced air service as provided in the Airport and Airway Safety and Capacity Expansion Act of 1987 and may provide compensation to a regularly scheduled air carrier under contract with the South Dakota Airline Authority. Funds provided by a county to pay compensation for such air service shall be budgeted pursuant to chapter 7-21. **7-18-19**

AIR POLLUTION PROGRAMS Ch 34A

- ***Municipal and county programs approved by board--Application to state facilities.*** Each municipality and each county may, with the approval of the Board of Minerals and Environment, establish and thereafter administer within its jurisdiction an air pollution control program which provides by ordinance or local law for requirements as strict or more strict and more extensive than those imposed by this chapter and rules issued under this chapter, or, upon prior review and approval by the board, less restrictive requirements. The air pollution control jurisdiction authorized pursuant to this section applies to state facilities located within the boundaries of the municipality or county if the municipality or county has been found to be in violation of National Ambient Air Quality Standards. **34A-1-36**
- ***Municipal and county cooperation with other agencies.*** Any municipality or county may administer all or part of its air pollution control program in cooperation with one or more municipalities or counties of this state or of other states provided that the requirements of other statutes relating to cooperative agreements are met. **34A-1-37**

AIRPORTS Ch 50

- ***Local government airport improvement contracts--Authorization, issuance, and sale of revenue bonds.*** Any municipality or county owning and operating an airport which has been approved by the state Aeronautics Commission for public use may contract to construct, improve, and equip buildings, hangars, runways, and structures for the improvement of its municipal or county airport. In lieu of issuing general obligation bonds for the projects or financing them, the municipality or county may issue revenue bonds. All revenue bonds shall be authorized, issued, and sold as provided in chapter 6-8B, except as specifically provided otherwise in this chapter. No election is required for the issuance of revenue bonds under this chapter. **50-8-1**
- ***County commissioners and municipalities--Airports--Powers and jurisdiction--Airport boards.***
The board of county commissioners of any county in this state may acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports for the use of aircraft within the limits of the county, and may use for any such purpose any real property suitable therefor owned or controlled by the county. Each municipality has the same power and jurisdiction except that a municipality may exercise the power either within or without the corporate limits of the municipality. The governing boards of a county or a municipality may

create an airport board by resolution. **50-7-2**

- ***Creation of regional airport authority by resolution.*** Any subdivision may by resolution, create a public body, corporate and politic, to be known as a regional airport authority. That authority shall be authorized to exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. **50-6A-2**

AMBULANCE SERVICE Ch 34-11

- ***Service provided by counties and municipalities--Agreements for service--Licensing and regulation.*** Any county or municipality may provide ambulance service and enter into agreements with other governmental subdivisions and with other persons for such services. Any county or municipality may appropriate funds for such purposes and may enter into an agreement with such other governmental subdivision or any competent person to furnish funds for such purposes on an annual basis as may mutually be agreed upon. The funds shall be paid to such person or political subdivision when a claim has been duly filed, audited, and allowed by the county or municipality. Any county or municipality may license and regulate persons providing such services. **34-11-1**
- ***Lien of county or municipality upon property of person receiving ambulance service.*** Whenever any county or municipality has entered into an agreement with any such other governmental subdivision or other person duly qualified and licensed to perform such services, and counties or municipalities become obligated to and do pay toward the maintenance of such ambulance service, the county or municipality providing ambulance service under the provisions of § 34-11-1, to the extent it is chargeable against that person shall have a lien upon all property both real and personal belonging to any person receiving such ambulance service; such lien, to the extent of reasonable and necessary charges for furnishing such service, shall extend to property held in joint tenancy including homestead interests, as well as property hereafter acquired or in which the person receiving such ambulance service has any interest. **44-13-1**

AMUSEMENT RIDE INSPECTION Ch 42-10

- ***Local government inspection.*** Nothing in this chapter prohibits any municipality or county from conducting independent inspections of amusement rides pursuant to their police powers. **42-10-3**

ANIMALS - See dogs

APPEALS TO CIRCUIT COURT FROM COUNTY COMMISSIONERS Ch 7-8

- ***Appeal to circuit court from county commissioners--Bond for costs.*** From all decisions of the board of county commissioners upon matters properly before it, there may be an appeal to the circuit court by any person aggrieved upon filing a bond in the amount of two hundred fifty dollars with one or more sureties to be approved by the county auditor conditioned that the appellant shall prosecute the appeal without delay and pay all costs that he may be adjudged to pay in the circuit court. Such bond shall be executed to the county and may be sued in the name of the county upon breach of any condition therein. **7-8-27**
- ***State's attorney's appeal from action of county commissioners.*** Upon written demand of at least fifteen taxpayers of the county, the state's attorney shall take an appeal from any action of such board if such action relates to the interests or affairs of the county at large or any portion

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thereof, in the name of the county, if he deems it to the interest of the county so to do; and in such case no bond need be required or given and upon serving the notice provided for in § 7-8-29, the county auditor shall proceed the same as if a bond had been filed and his fees for making the transcript shall be paid as other claims by the county. **7-8-28**

APPROPRIATIONS Ch 7-21 & 7-27 & 46-2 & 1-19B

- ***Appropriations to be within budget--Additions to budget prohibited.*** The board of county commissioners must not at any time or in any manner whatsoever make or provide for any appropriation or appropriations or for any expenditure or expenditures for any purpose, object, or item whatever, other than in and by the annual budget for the fiscal year as hereinbefore provided, and must not after the approval and adoption of such annual budget for any fiscal year make or provide for any increase in or addition to any amount appropriated for any purpose, object, or item in such annual budget, save and except as provided by §§ 7-21-21 and 7-21-22.

7-21-20

- ***Payment of claims against previous year's appropriation--Registration of warrants not paid.*** Warrants issued for claims allowed against budget appropriations for the previous fiscal year which have been filed before the board's first meeting in January, shall be paid out of the fund on which drawn on the presentation to the treasurer of the county, and in case of insufficient funds on hand to pay such warrants, due to delinquent taxes or other failure of revenue, then such warrants, upon presentation to the treasurer, shall be registered and the amount necessary to pay such warrants, if not paid at the time of the adoption of the annual budget, shall be included in the next annual budget. **7-21-47**

- ***Constructive knowledge of county financial condition and limitations.*** All officers, boards, and members of boards, and employees of every county and of all of its agencies and institutions and all other persons and corporations, shall be charged with notice of the financial condition of the county, and of all of its institutions and agencies, the limitations imposed by the budget thereof, the appropriations contained therein, the condition of each thereof, and the claims against the same. **7-21-30**

- ***County appropriations for aid of fair association or corporation.*** It shall be lawful for the boards of county commissioners of the counties embraced within the territory covered by the articles of the fair association or corporation operating under the provisions of this chapter, to appropriate for the aid of such association or nonprofit operating corporation and for such association or corporation to receive, for the purpose of paying premiums or otherwise assisting in the promotion of such fairs or exhibitions, such aid as in the discretion of the county commissioners is just and necessary. **7-27-17**

- ***Excessive debts, liabilities, and payments void.*** All orders, authorizations, allowances, contracts, payments, or agreements or liabilities to pay, made or attempted to be made in violation of this chapter, shall be void and shall never be the foundation of a claim against any county or against any institution or agency thereof, and all warrants, certificates, orders, or other evidences of indebtedness drawn or issued for the purpose of paying any indebtedness or liabilities incurred or created or attempted to be incurred or created in violation of the provisions of this chapter shall be void. **7-21-26**

- ***Personal liability of officers and employees creating or paying debts exceeding appropriated amounts.*** All officers, boards, and members of boards, employees, and all other

persons authorizing, contracting, or incurring, or attempting to authorize, contract, or incur any indebtedness or liability for or in behalf of any county or any institution or agency thereof in violation of the provisions of this chapter, or auditing, allowing, ordering paid, drawing, or issuing warrants in payment of, or paying any claims or demands upon or against a county or any institution or agency thereof, for any liability or indebtedness attempted to be created or incurred in violation of the provisions of this chapter shall be jointly and severally liable in person and on their official bonds to the county or to the institution or agency thereof of which they are officers or employees, to the extent of any payment or payments made on such void claims. **7-21-27**

- ***Liability for damages of officers and employees incurring debts exceeding appropriated amounts.*** All officers, boards, and members of boards, and employees of a county or any institution or agency thereof, authorizing, contracting, or incurring, or attempting to authorize, contract, or incur any indebtedness or liability for or in behalf of such county or institution thereof of which they are officers or employees, in violation of the provisions of this chapter, shall be jointly and severally liable in person and on their official bonds to the person, persons, corporation, or corporations damaged by such illegal authorization, indebtedness, or liability, to the extent of the loss sustained by such person, persons, corporation, or corporations. **7-21-28**

- ***Resolution to encumber unexpended appropriations--Contents--Listing kept by auditor.*** The board of county commissioners may by resolution at its first meeting in January or within ten days thereafter encumber that portion of unexpended appropriations from the prior year for which legal obligations were incurred but were not paid. The resolution shall state the appropriation account and amount encumbered. The county auditor shall keep a detailed listing by payee and amount supporting such amount shown in the resolution. **7-21-45**

- ***County appropriations for geologic or groundwater studies.*** A board of county commissioners may appropriate funds for the purpose of defraying the expense of having geologic or groundwater studies conducted within its county. **46-2-21**

- ***Appropriations for operating expenses and acquisition and management of historic properties.*** The governing board of a county or municipality is authorized to make appropriations to an historic preservation commission established pursuant to this chapter in any amount that it may determine necessary for the expenses of the operation of the commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic properties. **1-19B-7**

- ***Unassigned general fund balance limitation.*** The total unassigned fund balance of the general fund may not exceed forty percent of the total amount of all general fund appropriations contained in the budget for the next fiscal year. **7-21-18.1**

- ***Proration of appropriations covering more than one year.*** In all cases where appropriations of money have heretofore or may hereafter be made for periods longer than one year, it shall be unlawful for the person or persons whose duty it is to expend such appropriation to audit, expend, or contract to pay more money in any one year than a pro rata share thereof; that is, the expenditures for one year shall never exceed the proportion which one year of time bears to the whole time unless otherwise expressly provided. **7-21-29**

- ***Transfer of appropriation for contingencies.*** No expenditures shall be charged to the line item authorized for by § 7-21-6.1, but such appropriated amount may be transferred, by resolution of the board, to any other appropriation in which insufficient amounts were provided or for items for which no appropriation was provided. When transfers are made from the contingency budget to other appropriations, whose revenue is provided by other than general

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fund revenues, a transfer of fund balances may be made from the county general fund to such other fund in the amount of the budget transfer. **7-21-32.2**

- ***Unused appropriations terminated at end of year--Consideration in next budget.*** All appropriations for the expenditure of public moneys contained in the annual and supplemental budgets for such fiscal year, shall cease to be in effect at the expiration of the fiscal year for which the same were made, except as provided in § 7-21-45, and any unused balance appropriated shall be used and considered as revenue in making levy to cover expenditures in the next budget. **7-21-44**

- ***Resolution to encumber unexpended appropriations--Contents--Listing kept by auditor.*** The board of county commissioners may by resolution at its first meeting in January or within ten days thereafter encumber that portion of unexpended appropriations from the prior year for which legal obligations were incurred but were not paid. The resolution shall state the appropriation account and amount encumbered. The county auditor shall keep a detailed listing by payee and amount supporting such amount shown in the resolution. **7-21-45**

ASBESTOS DISPOSAL SITES Ch 34-44

- ***Responsibility of counties for providing disposal sites.*** Each county of the state shall be responsible for providing a disposal site for asbestos-containing materials which has been approved by the department. Such sites may include those made available through written agreements with other counties or subdivisions of government. **34-44-32**

AUCTIONEERS Ch 37-14 - 1 Repealed by SL 1996, ch 241

AUDITORIUM BUILDING FUNDS Ch 6-4

- ***Percentage of admission charge collected for fund--Restrictions on use of fund.*** Any county, municipality, or school district operating or maintaining, either jointly or severally, an auditorium, coliseum, public gymnasium, or public community house, shall have the power to establish a fund and may collect for such fund not exceeding ten percent of the admission charge paid by each person, except such students or any other group or classification of persons which may be specifically exempted therefrom by the governing body, for admission to such building for any recreational, athletic, or educational activity, exhibition, or entertainment, whether conducted or sponsored by any municipality or any person, firm, organization, or public or private corporation. The money derived shall be kept separate from all other funds of the governmental subdivision and shall be known as the auditorium building fund, and shall not be used for any other purpose except the erection or remodeling of an auditorium, coliseum, public gymnasium, or public community house, and for the acquisition of sites and equipment therefor. **6-4-1**

- ***Investment of money in fund--Disposition of income.*** The governing body of such county, municipality, or school district shall have power and authority to invest, from time to time and as such fund accumulates, the moneys derived therefrom in bonds of the State of South Dakota, bonds of any subdivision of government of this state, or bonds of the United States government, and the income derived from such investment shall be paid into and kept in such auditorium building fund. **6-4-2**

AUDITORS GENERALLY Ch 7-10

- ***Auditor as clerk of county commissioners--Preservation and destruction of records.***

The county auditor is the clerk of the board of county commissioners and shall keep an accurate record of its official proceedings and carefully preserve all of the documents, books, records, maps, and other papers required to be deposited or kept in his office and carefully perform such other acts and duties as are required by law. However, the county auditor may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value. **7-10-1**

- ***Accounting records maintained--Destruction.*** The county auditor is required to keep and maintain such accounting records as set forth in the accounting manual prescribed by the auditor-general. However, the county auditor may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value. **7-10-2**

- ***Monthly verification of treasurer's accounts--Report to county commissioners--Contents.*** The county auditor shall at the close of each calendar month list all cash and cash items held by the county treasurer and verify the balances in the depositories. The county auditor shall report to the board of county commissioners at each regular meeting the bank balances, the total amount of actual cash, the total amount of checks and drafts which have been in the treasurer's possession not exceeding three days. The county auditor shall also submit an itemized report of all cash items, checks, and drafts which have been in the treasurer's possession over three days. This report shall be made a part of the county commissioners' proceedings. **7-10-3**

- ***Financial reports--Time for preparation and publication--Filing of publication.*** The county auditor shall prepare by the first day of March of each year a report of the revenues and expenditures of the previous year and the assets, liabilities, and equity of the county as of December thirty-first of the previous year. The report shall be made in the form prescribed by the auditor-general and shall be published within thirty days in the official newspapers of the county. A copy of the publication shall be filed with the auditor-general. **7-10-4**

- ***General duties relating to elections.*** The county auditor shall perform all the duties required of him by law relative to making out and delivering notices of special and general elections, to making abstracts of and canvassing the votes cast at any special or general election, to issuing certificates of election to members of the Legislature, county, and precinct officers, and to forwarding the abstracts of votes cast at general or special elections to the secretary of state. **7-10-5**

- ***Call of special election when county commissioners fail to call.*** If the board of county commissioners for any cause fails or refuses to call special elections, the county auditor may provide for and call any special election under any of the statutes of the state in force within such county, upon the petition of a majority of all the registered voters of the county, based upon the total number of registered voters at the last preceding general election preceding such call. **7-10-6**

- ***Action against auditor and sureties for misconduct or omission of duty.*** An action may be brought against the county auditor and the sureties upon the official bond, in the name of the state and for its use, or for the use of any county or person injured by the misconduct in office of the auditor, or by the omission of any duty required of the auditor by law. **7-10-9**

BOND ISSUES - BONDS OF LOCAL PUBLIC BODIES Ch 6-8B

- **Election required for issuance.** Unless otherwise provided, no bonds may be issued either for general or special purposes by any public body unless at an election sixty percent of voters of the public body voting upon the question vote in favor of issuing the bonds. The election shall be held in the manner described by law for other elections of the public body.

6-8B-2

- **Issuance, form, and terms of bonds.** Bonds may be issued in one or more series, may bear the date or dates and mature at the time or times and in the amounts as the governing body may provide, except that no bond may mature more than fifty years from the date of its issue. The bonds may bear interest at the rate or rates, payable on the date or dates, may be issued in the denominations, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places within or without the state, and be subject to redemption, prior to maturity, at the times and prices as the governing body may provide. Bonds may be issued in registered form and shall be so issued when necessary under federal law and regulations as a condition for the exemption of the interest thereon from federal income taxation; or otherwise may be issued in bearer form, with coupons attached representing the interest payable thereon, or may be issued in form permitting registration of ownership of principal only.

6-8B-9

- **Disposition of proceeds.** The proceeds derived from the sale of any bonds shall be kept as a special fund apart from the other funds of the public body and shall be used exclusively for the purpose for which the bonds were issued. **6-8B-13**

- **Information filed with secretary of state by issuer.** Every public body, authority, or agency issuing any general obligation, revenue, improvements, industrial revenue, special assessment, or other bonds of any type, shall, on forms provided by the secretary of state, file with the secretary of state, the following information concerning each issue of bonds:

- (1) Name of issuer;
- (2) Designation of issue;
- (3) Date of issue;
- (4) Purpose of issue;
- (5) Type of bond;
- (6) Principal amount and denomination of bond;
- (7) Paying dates of principal and interest;
- (8) Amortization schedule;
- (9) Interest rate or rates, including total aggregate interest cost. **6-8B-19**

- **Bonds not included in computation of aggregate indebtedness.** In computing the aggregate amount of indebtedness of any public body for the purposes of § 6-8B-36, bonds which have been refunded, as provided in this chapter, by immediate payment or prior redemption and retirement or by the placement of the proceeds of refunding bonds or investments thereof in escrow, are not deemed outstanding indebtedness as of the date on which sufficient moneys are placed with the paying agent of the outstanding bonds for the purpose of immediately paying, or redeeming and retiring the bonds, or as of the date on which the proceeds of the refunding bonds or investments thereof are placed in an escrow. **6-8B-37**

- **Securities purchased for debt service fund limited.** Securities purchased for the debt service fund shall be limited to:

- (1) General obligations of the United States, securities whose principal and interest

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payments are guaranteed by the United States, and securities issued by the following agencies of the United States: banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association; or

(2) Obligations issued or guaranteed by any state or any political subdivision of a state, which at the date of purchase are rated the highest or the next highest rating given by Standard and Poor's Corporation, Moody's Investors Service, or a similar nationally recognized rating agency, but not less than the rating on the refunded bonds immediately prior to the refunding.

6-8B-54

- ***Local government airport improvement contracts--Authorization, issuance, and sale of revenue bonds.*** Any municipality or county owning and operating an airport which has been approved by the state Aeronautics Commission for public use may contract to construct, improve, and equip buildings, hangars, runways, and structures for the improvement of its municipal or county airport. In lieu of issuing general obligation bonds for the projects or financing them, the municipality or county may issue revenue bonds. All revenue bonds shall be authorized, issued, and sold as provided in chapter 6-8B, except as specifically provided otherwise in this chapter. No election is required for the issuance of revenue bonds under this chapter. **50-8-1**

- ***Bonds of county officers--Approval and filing.*** The bonds of all county officers shall be approved by the board of county commissioners, except bonds of the county commissioners, which shall be approved by the auditor, and shall, together with the oaths of office be filed in the office of the county auditor. **3-5-2**

- ***Amount of bonds.*** The bond of the state auditor shall be in the penal sum of ten thousand dollars, of the state treasurer in the penal sum of five hundred thousand dollars, of the secretary of state in the penal sum of five thousand dollars, of the commissioner of school and public lands in the penal sum of twenty thousand dollars, of the attorney general in the penal sum of three thousand dollars, of county commissioners in the penal sum of one thousand dollars, of the state's attorney in the penal sum of one thousand dollars; the bonds of registers of deeds, county auditors, sheriffs, coroners, treasurers, and constables, whether of the county or any civil township therein, shall each be in the penal sum to be fixed by the board of county commissioners in each county; but that of the county auditor shall not be in a less penal sum than two thousand dollars, and that of the county treasurer shall not be in a less penal sum than four thousand dollars, except when the total amount of taxes to be by him collected in any year is less than two thousand dollars, and then in double the amount of taxes to be by him collected. In no case shall the bond of the county treasurer be less than the sum of one thousand dollars; and those of constables shall not be in a less penal sum than two hundred dollars each. **3-5-3**

- ***Building bonds approved by voters--Other funds applicable without additional approval.*** Whenever the question of bonding the county for the purpose of bonding the county for the purpose of building or renovating, improving, remodeling, altering, adding to, or repairing a courthouse, jail, memorial building, or other county buildings shall have been submitted to a vote of the voters and such bond issue shall have been carried by a vote of the voters, then in addition to the proceeds raised from the sale of such bonds the board may, whenever there remains in the treasury of such county an unexpended balance of any special fund and all claims against such fund have been fully paid, or when there remains an unexpended balance of the general fund and all claims against such fund have been fully paid, in its discretion, apply the whole or any part of such accumulated funds to the purposes specified in this section and it shall

not be necessary to submit the question of such expenditure to the voters of the county. **7-25-4**

- ***Tax levy to pay county bonds--Proceeds placed in debt service fund.*** When a county issues bonds, at or before the time of doing so, the governing body thereof shall levy a continuing annual tax sufficient to pay the interest and the principal thereof when due. All taxes so levied, when collected, shall be placed in a debt service fund. No part of the fund may be used for any other purpose than to pay the interest and principal of the bonds for which they were levied and collected. The levy authorized by this section is in addition to the levy authorized in § 10-12-21. **7-24-18**

- ***Apportionment of bonded indebtedness after division of county--Bonds and tax levy of new county.*** Any bonded indebtedness of such original county shall be apportioned to each division ratably upon the basis of the last equalized assessment previous to the division thereof and each of such divisions shall be charged with, assume, and pay its just portion of such debt upon the basis of such apportionment; and each new division shall, as soon as organized as a county, issue its bonds to meet its portion of such bonded debt. Such bonds shall be made payable to the original county, shall bear the same rate of interest, be of similar tenor, and shall mature on the same date as the outstanding bonds of the original county on account of which the bonds of the new county are issued. The county commissioners of each new county shall annually levy and collect a tax to pay the interest on the bonds issued hereunder as it shall accrue and to meet and discharge the principal thereof at maturity, and the original county shall retain such bonds and not be allowed to dispose of or sell the same. **7-3-4**

- ***Sale of county bonds based on advertising and award before division.*** When such original county has, by and through its board of county commissioners, duly advertised for sale its funding bonds so voted and authorized, and has awarded such bonds to the highest and best bidder therefor pursuant to the advertisement for bids, it shall be unnecessary to advertise for sale, the funding bonds to be issued by the new county or counties and the original county as provided in § 7-3-5, but each county may through its board of county commissioners sell and deliver its bonds hereby authorized to the person or persons and under the terms mentioned in the award of the original county as aforesaid. **7-3-6**

- ***Election on bonds--Issuance.*** Bonds shall be authorized, issued and sold as provided in chapter 6-8B if a majority of all registered voters voting at the bond election authorize the bond issue. **7-24-2**

- ***Bond issue for satisfaction of judgment against county.*** If a judgment has been recovered against a county upon any claim, and the judgment has become final by expiration of the time for appeal or decision upon appeal, the governing body of the county, by a resolution declaring it to be for the best interests of the county, passed and entered upon its records, published in its proceedings may without submitting the matter to a vote of the voters issue bonds of the county for the purpose of compromising the judgment. The bonds shall be delivered only to the judgment creditor or his successor in ownership of the judgment, upon a complete release and satisfaction of the judgment. The bonds may not exceed the amount due upon the judgment at date of the bonds. All bonds shall be issued and sold as provided in chapter 6-8B. **7-24-9**

- ***Nullification by initiated ordinance of emergency provisions prohibited--Time for initiated measure to nullify bond purposes.*** An initiated ordinance may not be proposed which would nullify such ordinances or resolutions as may be necessary for the immediate preservation of the public peace, health, or safety or for the support of any government or existing public

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institutions, or which would nullify the purpose for which bonds have been sold by a county pursuant to statutory authority, unless proposed within a period of thirty days after the first publication of the advertisement of the notice of sale of such bonds. **7-18A-10**

- ***Recording of bonds of county and precinct officers.*** The bonds of all county and precinct officers immediately after the approval of the same, shall be recorded at length in the office of the register of deeds of the county to which such bonds are given, in a book to be provided and kept for that purpose. When such bonds are so recorded they shall be forthwith filed respectively as provided in this chapter. **3-5-9**

- ***Rental facilities for economic development--Power to issue revenue bonds.*** All powers conferred upon municipalities under chapter 9-54 relating to the power to issue revenue bonds shall also be applicable to any county. **7-18-16**

- ***Amount of bonds.*** The bond of the state auditor shall be in the penal sum of ten thousand dollars, of the state treasurer in the penal sum of five hundred thousand dollars, of the secretary of state in the penal sum of five thousand dollars, of the commissioner of school and public lands in the penal sum of twenty thousand dollars, of the attorney general in the penal sum of three thousand dollars, of county commissioners in the penal sum of one thousand dollars, of the state's attorney in the penal sum of one thousand dollars; the bonds of registers of deeds, county auditors, sheriffs, coroners, treasurers, and constables, whether of the county or any civil township therein, shall each be in the penal sum to be fixed by the board of county commissioners in each county; but that of the county auditor shall not be in a less penal sum than two thousand dollars, and that of the county treasurer shall not be in a less penal sum than four thousand dollars, except when the total amount of taxes to be by him collected in any year is less than two thousand dollars, and then in double the amount of taxes to be by him collected. In no case shall the bond of the county treasurer be less than the sum of one thousand dollars; and those of constables shall not be in a less penal sum than two hundred dollars each. **3-5-3**

- ***Sureties on bonds.*** Every official bond shall be given with at least two sureties, and the bond of the state treasurer shall have at least four sureties, and that of the county treasurer at least three sureties. In lieu of a bond with personal sureties a bond executed by a surety company legally authorized to transact business in this state may be approved. **3-5-4**

- ***Premiums on corporate surety bonds.*** Whenever an officer, deputy, or employee of the State of South Dakota, or its subdivisions including counties, school districts, townships, municipal corporations, and all other governmental subdivisions and departments, in furnishing a bond required by law or rules or regulations of any board, or department, or governmental subdivision of this state, shall furnish a bond executed by a surety company legally authorized to transact business in this state, the state or any of its said departments or subdivisions is hereby authorized and required to pay the premium thereon out of its general funds, upon the lawful approval of said bond. **3-5-5**

- ***Limitation of liability by surety.*** Any surety on any official bond running to the state or any county, may limit his liability by inserting after his name the words "not to exceed" naming the amount to which he desires to limit his liability. Any surety may also limit its or his liability as to time by inserting in the bond a provision that it or he shall not be liable for any acts of the principal prior to the date of the bond. **3-5-6**

- Bonds and oaths to cover all duties of office--Noncomplying bonds valid as to matter contained. The bonds and oaths of all civil officers shall be construed to cover duties required by law subsequent to giving them. No official bond shall be void for want of compliance with the

statute, but it shall be valid in law for the matter contained therein. **3-5-11**

- ***Bond found insufficient by county commissioners--Determination of sufficiency by circuit court.*** In case the board of county commissioners should decide that a bond presented to it is insufficient, a reasonable time, not to exceed five days, shall be allowed the officer to supply a sufficient bond, and such board may take three days to consider the approval of any bond. If such board refuse or neglect to approve the bond of any county officer or township officer elect, he may present the same to the judge of the circuit court and serve notice of a time of hearing thereof upon the board. Upon due proof of such service being made to the judge at the time therein named, he shall, unless good cause for delay appear, proceed to hear and determine the sufficiency of the bond, and may approve the same, and such approval shall be in all respects valid. **3-5-13**

BOUNDARIES ENUMERATED GENERALLY Ch 7-1

- ***Names and boundaries unchanged--Prima facie boundary descriptions.*** The names and boundaries of the several counties of this state shall be and remain as now fixed and determined, until changed in the manner provided by law. The following sections shall be deemed to show the boundaries of such counties correctly until the contrary is definitely established. **7-1-1**

BOUNDARY CHANGES Ch 7-2

- ***Petition for consolidation or boundary change--Filing with county auditors--Submission to vote.*** If fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, of each of two or more adjoining counties of this state, petition the board of county commissioners of their respective counties for an election to determine the question of changing the boundary lines or of the consolidation of two or more counties, stating in such petition the names of the counties to be consolidated or boundary lines to be changed, such boards of county commissioners shall at their regular July meeting succeeding the presentation of such petitions provide that the question of consolidation of the counties or the changing of the boundary lines of such counties shall be submitted to a vote at the next general election succeeding the presentation of such petitions. The petitions shall be filed with the county auditors of such counties prior to the first day of the regular July meeting of the board of county commissioners. The auditor of each county where any such petition has been filed shall transmit to the auditor of the other county or counties affected thereby a certified copy or copies of the petition or petitions filed in his county. **7-2-1**

- ***Transcription of records after change of county boundaries.*** Whenever the boundaries of a county have been changed, it shall be the duty of the board of county commissioners at once to secure a full, true, and complete transcript of such records of the original county as may relate to or in any manner affect the property rights or interest within the territory included by the changing of the boundaries of said county and theretofore not a part of the records of the original county, such transcript to be obtained and secured in the same manner and to have the same force and effect as transcripts obtained and secured on the division of counties. **7-2-14**

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BRIDGES Ch 31-14

- ***County commissioners' responsibility for bridges and culverts.*** The duty to construct and maintain all bridges and culverts throughout the county, except upon the state trunk highway system, is hereby imposed upon the board of county commissioners, subject to conditions relating to bridges and culverts on secondary highways in townships. **31-14-2**
- ***Survey of bridge sites--Contents.*** After determining the necessity for any and all bridges required by any county in the state, it shall be the duty of the board of county commissioners of such county to advise the county highway superintendent of such determination, and to require him or a registered engineer retained by the board of county commissioners for that purpose to make a survey of such bridge sites. Such survey shall consist of a profile of the proposed site, approximate location in regard to the nearest section corner, soundings for the location of footings, and an estimate of the available watershed. **31-14-3**
- ***Cost estimate for bridge construction--Preparation and filing.*** Upon receipt of such plans and specifications, it shall be the duty of the county highway superintendent to make and file a detailed estimate of the cost of the bridge, abutment, pier, or other work contemplated by such plans, and file such estimate of cost with the county auditor. **31-14-6**
- ***Cost statement of county work prepared by county highway superintendent--Filing.*** The county highway superintendent shall keep a careful and itemized account of the quantity and cost of all materials and labor used in the construction of each such bridge or piece of work, in a standard form prescribed by the department. The cost statement shall be filed with the county auditor and a copy transmitted to the department as in the case of the cost statement of any other bridge or piece of work as provided in this chapter. **31-14-22**
- ***Emergency contracts for repair of bridges and approaches authorized.*** Whenever an emergency arises requiring immediate expenditure for the repair or rebuilding of bridges and approaches to bridges, when such bridges and approaches to bridges are required to be built immediately, and on such short time that in the judgment of the board of county commissioners the public would be seriously inconvenienced in awaiting the regular advertising for bids for such building and rebuilding of bridges and approaches, the board of county commissioners may enter into contract for any such building or rebuilding of bridges and approaches to bridges without advertising for the letting of any contract therefor. **31-14-24**
- ***Unlawful agreements on contracts--Offering or receiving bribes--Felony.*** Any person receiving, or having any agreement to receive, a royalty, commission, percentage, or discount upon the contract price of any bridge, or piece of work, or bridge material, and who shall submit his sealed bid thereon with intent to secure the advantage of any competitive bidder, or any two or more persons who shall conspire together with intent to prevent competitive bidding upon any contract authorized by the provisions of this chapter or chapter 31-10 or chapter 31-15, or any officer or agent for any bridge company who shall give, or offer to give, to any public official anything of value for the purpose of influencing such official in awarding any contract authorized by such chapters, or any public official who shall receive or accept anything of value from any officer or agent for any such bridge company, shall be guilty of a Class 6 felony. **31-14-46**

BUDGETS Ch 7-21

- **Commissioners to adopt annual budget.** It shall be the duty of the board of county commissioners of each and every county to prepare and adopt an annual budget of all of the contemplated expenditures and revenues of the county and all of its institutions and agencies for each fiscal year, save and except so much of such contemplated expenditures as are for the making or maintenance of special improvements. **7-21-2**
- **Preparation and filing of provisional budget.** From the estimates of revenues and expenditures made as provided for in § 7-21-3, and from such other information as may be required and obtained by the board of county commissioners, the board of each county must, between the fifteenth and thirtieth days of July in each year, make, prepare, and file in the office of the county auditor a provisional budget, for the following fiscal year. **7-21-5**
- **Computation of amount to be raised by property tax.** Before October first in each fiscal year and after the annual budget for the following fiscal year has been approved and adopted, the board shall compute and determine:
 - (1) The total amount of all appropriations contained in the budget for the next fiscal year, and payable out of each particular fund;
 - (2) The total amount of revenue, except taxes on real property, likely to be received by each particular fund during the next fiscal year from all sources which includes the unobligated fund balance of each particular fund and excludes amounts authorized by law to be held in reserve;
 - (3) The difference between the total amount determined in subdivision (2) above, and the total amount determined in subdivision (1) above, and to the amount of such difference for each particular fund shall be added an amount equal to five percent of the total amount of all appropriations payable out of such fund during the next fiscal year and the total of such two amounts shall be the amount necessary to be raised for such fund during the next fiscal year by taxes on real property. **7-21-18**
- **Unused contingency funds terminated at end of year.** Any unused balance in the contingency budget shall revert at the close of the year and shall not be accumulated. **7-21-44.1**
Contents of provisional budget. The provisional budget required by § 7-21-5 shall contain:
 - (1) A detailed statement of the amount of revenues likely to be received from each and every source during the following fiscal year, the amount of revenue received from each and every source during the current fiscal year, and the estimated unexpended balance of money remaining in each fund at the close of the current fiscal year, together with an estimate of all debts and liabilities incurred or created during such fiscal year, and payable out of each of such funds, but remaining unpaid at the close of the fiscal year;
 - (2) The respective amounts proposed to be appropriated for expenditures for county purposes or its officers or departments or agencies thereof, during the following fiscal year. **7-21-6**
- **Line item for contingencies included in annual budget--Amount and source.** In preparing the provisional budget as provided by § 7-21-6 the board of county commissioners may include in the budget a line item for contingencies. The line item shall be included in the annual budget adopted pursuant to § 7-21-12 and shall not exceed five percent of the total county budget. The amount to be budgeted for the contingency shall be included in the appropriation for the county commissioners out of general fund revenues. **7-21-6.1**
- **Publication of notice of commissioners' budget meeting.** After the provisional budget

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has been filed in the office of the county auditor, the board of county commissioners shall publish a notice once a week for two successive weeks in the official newspapers of the county. The last notice shall be published before the first Tuesday in September, and the notice shall state where and when the board will meet. The board shall meet on the first Tuesday in September for the purpose of considering the budget and the various estimates, items, schedules, amounts, appropriations, and matters contained in the provisional budget. If the board meets prior to the first Tuesday in September for such purpose, the board shall designate certain days in the minutes of the board and the notice. However, the board shall also hold the hearing required on the first Tuesday in September. It shall also be stated in the notice that at any meeting of the board held for the purpose of considering the budget, any interested person may appear, either in person or by representative, and be heard and given an opportunity for a full and complete discussion of all the purposes, objects, items, schedules, appropriations, amounts, estimates, and matters set forth and contained in the provisional budget. **7-21-8**

- ***Commissioners' meeting for consideration of budget--Hearing of interested persons.***

At the time and place designated in the notice required by § 7-21-8, the board shall meet for the purpose of considering the provisional budget. The board may adjourn from day to day for further consideration. The board's minutes shall include the day and hour to which each meeting is adjourned. At such meetings any person interested in the provisional budget may appear, either in person or by representative, and shall be permitted to fully discuss the provisional budget and all of the purposes, objects, items, schedules, appropriations, amounts, estimates, and matters contained in the provisional budget. All consideration and hearings on the provisional budget shall be fully concluded by October first of each year. **7-21-9**

- ***Supplemental budget for unanticipated disaster.*** In the event of an epidemic or disease or act of God, disaster, catastrophe, or accident, which results in damage to or destruction of any of the works, roads, buildings, or property of the county or any of its institutions or agencies, and the results of which have not been anticipated in the annual budget adopted for the fiscal year in which the same occur or take place, and which require the incurring of liabilities or expenditures of funds in connection with the suppression of the epidemic or disease, restoration of works, roads, buildings or property, or removing the menace above referred to, and restricted to causes where no other funds have been provided or appropriated therefor, the board may without further notice or hearing adopt a supplemental budget making and providing for an appropriation for the purpose and object, and for an amount deemed necessary, and may then incur liabilities or expend funds for such purpose, but not to exceed in the aggregate the amount specified in such supplemental budget. **7-21-21**

- ***Supplemental budget to meet statutory obligations and indispensable functions of government--Notice and hearing.*** In the event of the passage and enactment of any law during a fiscal year and after the adoption of the annual budget for a following fiscal year, imposing some new obligation or duty upon a county, or in the event of the failure to provide by the final budget a sufficient revenue to enable the county to conduct the indispensable functions of government in any department, or to pay just obligations upon the county for the necessary conduct of the courts, or for the necessary aid and support of the poor or to discharge any duty which it is the lawful duty of the county to discharge, and of which requires the incurring of liabilities or expenditures of funds for a purpose or object for which no provision has been made in the annual budget for such fiscal year, and when such occasion arises the board must make, approve, and adopt a supplemental budget providing therein for an appropriation for such purposes in such

amount as the board may deem necessary, and such budget shall set out in detail each item for which an appropriation is made and the amount thereof. Notice of its intention to make and adopt such supplemental budget, as provided in this section, stating the purpose, object and items and the amount to be appropriated for each item, with the time and place when the same will be considered and adopted by the governing board, shall be given in such manner as the board may determine, provided that the time fixed for considering and adopting the same shall not be less than ten days from date when such notice is first given. **7-21-22**

- **Notice to county agencies of budget amounts.** After the approval and adoption of the annual budget as provided in § 7-21-12, and immediately after the approval and adoption of each supplemental budget, as provided in § 7-21-21 or § 7-21-22, the county auditor shall notify in writing before the beginning of the next fiscal year, each officer and board, and each employee in charge of an office, bureau, or department, and each head, person, or board in charge of an institution or agency of the county for which any appropriation is provided in such annual or supplemental budget of the amount of such appropriations and the same shall be itemized so as to show in detail each purpose and object and each item thereof for which any appropriation is provided and the amount thereof. **7-21-24**

- **Unassigned general fund balance limitation.** The total unassigned fund balance of the general fund may not exceed forty percent of the total amount of all general fund appropriations contained in the budget for the next fiscal year. **7-21-18.1**

BUILDING CONSTRUCTION CONTRACTS Ch 7-25

- **Lowest responsible bid accepted--Progress payments permitted in contract--Interest on payments withheld.** The lowest responsible bid in all cases shall be accepted and the contract for the building or buildings may permit progress payments, but if so shall provide for retention of not less than the following percentages: twelve percent of the amount of the contract up to fifty thousand dollars; five percent of the next two hundred thousand dollars of the amount of the contract and two and one-half percent of the amount of the contract in excess of two hundred fifty thousand dollars until the contract is fully executed and the building or buildings completed to the satisfaction and acceptance of the board of county commissioners. However, if the contractor has furnished the board all required records and reports and a final inspection has been made, the board shall pay to the contractor interest at the Category A rate of interest as established in § 54-3-16 on the amounts retained and on the final payment due the contractor beginning sixty days after the work under the contract has been completed, as evidenced either by the completion date established in the superintendent's or architect's letter of acceptance or by the use and occupancy of the building, and running until the date when payment is tendered to the contractor unless delay in payment has been the result of federal participation in such contract, in which event interest may not begin until sixty days after payment by the federal authority involved. **7-25-10**

- **Performance bond required of construction contractor.** The board shall require a bond from the contractor in a sum equal to the contract price, conditioned that the contractor executes the contract and completes the building according to the plans and specifications and to the full satisfaction of the board. The contractor shall account for all moneys paid to the contractor and pay all bills and claims on account of labor or materials furnished in and about the performance of the contract including all demands of subcontractors. The bond shall stand as security for the bills, claims, and demands and be a surety bond issued by a surety company authorized to do a

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surety bonding business in the state or a personal bond with sufficient sureties, to be approved by the board of county commissioners. **7-25-12**

BUILDING FUND

- ***Commissioners' duty to use accumulated building fund.*** After a fund for the construction of a courthouse, office, or jail building, county exhibition buildings, 4-H and extension buildings, grandstands and bleachers, and highway maintenance buildings has accumulated from any source, it shall be the duty of the board of county commissioners within one year from the time such fund becomes available to proceed to the erection of such building or buildings, if such fund shall in the judgment of the board be sufficient for that purpose. **7-25-5**

BUILDINGS

- ***Acquisition of ground for authorized county buildings--Board to supervise construction of all buildings.*** The board of county commissioners when authorized to erect any county building or joint county and municipal building shall have power to acquire ground for a site by purchase or condemnation. The board shall also have the entire supervision of the construction of all county buildings and monuments. **7-25-6**
- ***Joint county-municipal-school district buildings construction.*** **6-3-1 to 6-3-13**
- ***Building plans and specifications to be on file--Petty offense to permit removal.*** One copy of the plans and specifications for any building to be erected shall be on file in the office of the county auditor at all times from the beginning of the publication of the advertisement for bids until the completion of the building. Any county auditor who allows or permits the original of any building plans or specifications filed in the office to be removed from the office commits a petty offense. **7-25-8**
- ***County commissioners authorized to construct and improve buildings--Maximum expenditure authorized without voters' approval.*** The board of county commissioners shall have authority to provide for the erection, renovation, improvement, remodeling, alteration, addition to, and repairing of courthouses, jails, memorial buildings, which may contain an auditorium, and other necessary buildings within and for the county and to make contracts on behalf of the county for such purposes; but no expenditure for these purposes, greater than can be paid for out of the annual revenue of the county for the current year, including for courthouse, office, and jail buildings the revenue from the special levy provided by § 7-25-1, together with the amount of any debt service fund theretofore provided for such purpose, shall be made unless the question of such expenditure shall have first been submitted to a vote of the qualified voters of such county and shall have been approved by a majority of the votes so cast; and the board shall determine the amount and rate of taxes to be submitted to a vote for such purpose. **7-25-3**
- ***Rental space provided county officers where courthouse or jail insufficient.*** In any county where there is no courthouse or jail erected by the county, or no lodging for prisoners provided under a joint agreement pursuant to § 24-11-4, or where those erected have not sufficient capacity, it shall be the duty of the board of county commissioners to provide for courtroom, jail, and offices for the following named officers: sheriff, treasurer, register of deeds, state's attorney, auditor, clerk of courts, and circuit court judge for the county, to be furnished by such county in a suitable building or buildings for the lowest rent to be obtained at the county seat, or to secure and occupy suitable rooms at a free rent within the limits of the county seat or any of the additions thereto until such county builds a courthouse. **7-25-17**

- ***Sale and lease-back arrangements--Disposition of sale proceeds.*** The board of county commissioners of any county may by resolution exercise all the powers conferred on the South Dakota Building Authority pursuant to and in the manner provided by §§ 5-12-15, 5-12-19 and 5-12-42 to 5-12-45, inclusive, with respect to the acquisition, lease, sale and lease-back of land, improvements, and capital equipment to be used for any lawful purpose, except that the proceeds of sale of any such facility are subject to § 6-13-8. All land, improvements and capital equipment owned or being leased or acquired by the county pursuant to a lease having a fixed term plus renewal options exceeding three years or a lease-purchase or installment purchase contract shall constitute a separate class of property which is exempt from all taxation. **7-25-19**
- ***Sale and lease-back powers additional--Restrictions on exercise.*** The powers conferred by § 7-25-19 are in addition to all other powers conferred upon the board of county commissioners of any county, and their exercise shall be subject only to such restrictions as may be provided by the South Dakota Constitution and are not subject to any restrictions or procedural requirements prescribed by any other law. **7-25-20**
- ***Appointment of superintendent to oversee construction--Progress payments based on superintendent's reports.*** The board may appoint a competent superintendent, who may be the architect furnishing the plans and specifications for such building or buildings and such superintendent shall report to the board every thirty days as to the progress and character of the work done by the contractor, and upon the reports of the superintendent payments to the extent of the percent specified in § 7-25-10 or the percent embodied in the contract shall be made to the contractor from time to time during the process of construction, divided into such installments as the board and the contractor may agree upon at the time of entering into the contract, and which shall be included in and be a part of the terms of the contract. None of such payments, however, shall be held to constitute an acceptance in whole or in part, by the board prior to the making of the final payment and acceptance in full completion of the contract. **7-25-14**
- ***Annual tax levy for construction or improvement of certain buildings--Fund accumulated--Cooperation with other subdivisions--Proceeds pledged to payments without limitation.*** The board of county commissioners may levy a tax not to exceed ninety cents per thousand dollars of taxable valuation to be used or paid into a fund for the purpose of acquiring a site, constructing, renovating, improving, remodeling, altering, adding to, repairing, erecting, or maintaining a courthouse, office, jail building, county exhibition buildings, 4-H and extension buildings, grandstands and bleachers, highway maintenance buildings, or public library. The county may cooperate in a joint undertaking for any of the foregoing purposes with any other county, municipality or school district. The levy authorized by this section is in addition to the levy authorized in § 10-12-21. The proceeds of the levy authorized by this section may be pledged by the county to payments under an agreement entered into pursuant to § 7-25-19 without regard to the limitations of § 7-25-3. **7-25-1**

BURIAL OF INDIGENT PERSONS Ch 28

- ***Funeral expense borne by county of residence or where death occurred.*** If any person who is destitute and has no estate dies within the state, and who has no one legally bound for funeral expenses, and where there is no other source to pay the cost of burial or cremation expense, the funeral expenses shall be borne by the county in which the deceased was a resident at time of death. If no residence can be determined for the deceased person, the funeral expenses shall be borne by the county in which death occurred. **28-17-2**

CAMPGROUNDS Ch 7-18

- **Temporary campgrounds--Permit required.** The provisions of chapter 34-18 notwithstanding, a county may require that the owners or operators of temporary campgrounds secure a permit from the county before operating as a temporary campground within the county. For the purposes of this section, a temporary campground is any campground which operates at a fixed location for a temporary period of time in connection with a fair, carnival, public exhibition, or similar gathering. The owner or operator of a temporary campground shall apply to the county treasurer upon forms provided by the county treasurer for a permit required by this section. The board of county commissioners may by resolution establish fees for a temporary campground permit. **7-18-21**

CAPITAL OUTLAY FUNDS Ch 7-21

- **Accumulation of funds for capital outlay purposes.** A board of county commissioners may, by resolution, authorize the accumulation of funds for a period longer than one year for a capital outlay purpose which is otherwise authorized by law. For the purpose of this section, the term, capital outlay purpose, includes any purpose which is extraordinary in nature, exceeds the funding ability of a single-budget year, and may result in the purchase of services, materials, supplies, or equipment. The resolution is enacted if approved by a vote of sixty percent or more of the governing body and shall clearly set forth the purposes for which the funds are to be accumulated and the maximum amount that may be accumulated. The funds to be accumulated shall be expended within eighty-four months from the date of the resolution. If the specific purpose for which the funds are accumulated is no longer necessary, the funds shall revert to the fund from which the funds were originally appropriated. The amount of accumulation for a specific purpose may not exceed five million dollars. The accumulation of funds pursuant to this chapter is in addition to any accumulation of funds authorized by § 7-21-18.1. **7-21-51**

CARNIVAL PERMITS Ch 7-18

- **Special events--Permits.** A county may require that the promoters of a special event secure a permit from the county before a special event may be conducted within the county unless the special event is carried on exclusively within the boundaries of a municipality. For the purposes of this section, a special event includes a fair, carnival, concert, public exhibition, or similar gathering except for special events sponsored, in whole or in part, by an accredited South Dakota educational institution. The promoter of a special event shall apply to the county treasurer upon forms provided by the county treasurer for a permit required by this section. The board of county commissioners may by resolution establish fees for a special event permit. **7-18-22**

CERTIFICATES OF INDEBTEDNESS AGAINST DELINQUENT TAXES Ch 7-21

- **Certificates of indebtedness against delinquent taxes for payment of outstanding warrants, claims, and liabilities.** For the purpose of providing funds for the payment of outstanding warrants and claims and liabilities, the board of county commissioners may, whenever the total amount of delinquent taxes for the preceding year on real estate payable into any fund shall be more than five percent of the total amount of taxes levied on real estate during the preceding year, without being required to submit the question of so doing to any election, by a resolution provide for the borrowing of money for the fund in an amount equal to the excess

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of delinquent taxes over five percent and shall issue certificates of indebtedness therefor, which shall be in denomination of one hundred dollars or multiples thereof, shall bear interest at a rate to be negotiated by the parties from the date thereof until paid and redeemed and shall be registered in the office of the county treasurer. **7-21-37**

- ***Form of certificates of indebtedness against delinquent tax fund.*** The certificates of indebtedness issued pursuant to § 7-21-37 shall be in substantially the same form as warrants drawn against the general fund of the county, except that they shall be known as certificates of indebtedness and each shall recite in the body thereof that it is drawn against and the principal and interest thereof is payable out of a special fund to be known as the "Delinquent tax fund for the fiscal year ending December 31st, 20____," and will be called in and paid and redeemed whenever there is sufficient money in such fund applicable for such purposes. **7-21-38**

- ***Sale or exchange of delinquent tax certificates of indebtedness.*** Certificates of indebtedness issued pursuant to § 7-21-37 may be sold by the board at either public or private sale, but shall not be sold at less than their par value, or may be exchanged for such outstanding warrants, dollar for dollar with accrued interest thereon, but no brokerage, legal, or other fees, or commissions of any kind shall be paid to any person or corporation for negotiating or assisting in the preparation, sale, or exchange thereof. **7-21-39**

- ***Proceeds of certificates of indebtedness--Use to pay outstanding warrants, claims and liabilities.*** The moneys so borrowed for each of such funds shall be deposited to the credit thereof and shall be used for the purpose of paying and redeeming the outstanding warrants drawn against such funds, and the claims and liabilities created, during such fiscal year, together with the interest thereon, and it shall be the duty of the treasurer immediately upon receiving the money so borrowed to deposit the same to the credit of the proper funds and to call in for payment such warrants, claims, and liabilities or so much thereof as such money will pay. **7-21-40**

- ***Resolution creating delinquent tax fund--Tax collections paid into fund.*** Such resolution must create a fund to be known as the "Delinquent tax fund for the fiscal year ending December 31st, 20____," and shall provide that all delinquent taxes levied during such fiscal year for the funds for which such money has been borrowed, together with all penalties, interest, and costs added thereto, shall be, as fast as the same are collected, paid into and deposited to the credit of such fund, and shall be used for the payment of principal of and interest on such certificates of indebtedness and for no other purpose. **7-21-41**

- ***Redemption of certificates of indebtedness from delinquent tax fund.*** The treasurer shall, whenever there shall be any money in any delinquent tax fund sufficient to pay one or more of the certificates of indebtedness issued against such fund with accrued interest, call the same in for payment and redemption in the same manner that warrants against the general fund of the county are called in for payment and redemption, and interest on such certificates shall cease on the date specified in the notice calling such certificates in for payment. **7-21-42**

- ***Apportionment of unused balance in delinquent tax fund.*** If, after all certificates of indebtedness drawn against any delinquent tax fund shall have been fully paid, there remains any balance in such fund, such balance shall be apportioned to the several funds for which money was borrowed in proportion to the total amount of taxes levied for each fund in such fiscal year, and such fund shall thereupon be terminated and all delinquent taxes for such year thereafter paid shall be apportioned to the funds for which the same were originally levied. **7-21-43**

CHILD SUPPORT

- ***Reimbursement of county from deceased parent's estate for support provided child.*** If a parent chargeable with the support of a child dies leaving it chargeable upon the county, and leaving an estate sufficient for its support, the officers of the poor, in the name of the county, may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as creditors against the estate and against the heirs, devisees, and next of kin of the parent. **25-7-14**

CLAIMS

- ***Liability of Public Entities and Public Officials.*** Ch 3-21
- ***Ordinances And Resolutions.*** Ch 9-19
- ***Circuit court authorization for commencement and prosecution of action.*** The state's attorney may commence and prosecute actions in the name of and on behalf of the county as provided in this chapter. If in the opinion of the state's attorney the commencement and prosecution of any action is necessary to protect the interests of the county in any matter or to recover any money due the county from any person, the state's attorney may present to the judge of the circuit court of the circuit in which the county is situated a summons and complaint in such matter and ask leave of the judge to commence such action. If it appears to the judge that the interests of the county presumably require the prosecution of the action, the judge shall endorse the summons. Then the state's attorney may commence and prosecute the action. **7-19-1**
- ***County purchase of real estate sold on execution.*** If any real estate is advertised to be sold at execution sale, held pursuant to any judgment in an action to which any county shall be a party, the board of county commissioners of the county may instruct the county auditor to bid on the real estate in the name of the county. The commissioners shall fix the maximum price for the auditor to bid for the real estate. The county auditor upon the receipt of the instructions shall attend the sale. The county auditor shall bid on the real estate, but may not exceed the maximum amount fixed by the board. The county auditor shall purchase the real estate at the lowest price at which the real estate can be procured. Any county may hold in its own name and for its own benefit all real estate acquired under the provisions of this section. **7-19-2**
- ***Verified statement or invoice required before claim allowed against county--Contents--Jurors' and witnesses' claims exempt.*** Before any account, claim, or demand against any county for any obligation, property, or services for which the county is liable may be allowed, the person who has the account, claim, or demand shall:
 - (1) Submit in writing and verify that the account is just and true, the money charged was actually paid for the purposes stated; the property charged for was actually delivered or used for the purposes stated, and was of the value charged; and the services charged were actually rendered and of the value as charged. If the services were official, for which fees are prescribed by law, that the fees and amounts charged for the services are allowed by law and no part of the account, claim, or demand has been paid; or
 - (2) Present an invoice or verification which shall be attached to a county voucher, the latter being signed or verified by the county official who purchased the property or had the services rendered to the effect that the account is just and true; the money charged was actually paid for the purposes stated; the property charged for was actually delivered or used for the purposes stated, and was of the value charged; and the services charged for were actually rendered and of the value as charged. If the services were official, for which fees are prescribed by law, that the

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fees and amounts charged for the services are allowed by law and no part of the account, claim, or demand has been paid. The provisions of this section do not apply to any claim or demand for the per diem of jurors or witnesses fixed by law. **7-22-1**

- ***Warrant required for payment of claim against county.*** No claim against the county shall be paid otherwise than upon the allowance of the county commissioners upon the warrant of the county auditor, except one authorized to be allowed by some other person or tribunal, in which case the claim shall be paid upon the warrant of the county auditor upon the proper certificate of the person or tribunal allowing the same. **7-22-2**

CLERKS OF CIRCUIT COURTS Ch 16-2

- ***Counties to provide facilities for clerk.*** Each county in the state shall provide suitable and adequate facilities for the clerk or any deputy clerk of the circuit court, including the facilities necessary to make the space provided functional for its intended use. **16-2-25**

- ***Fees charged by clerk of courts--Governmental bodies exempt.***

The clerk of courts shall charge and collect the following fees:

- (1) For the probate of an estate, seventy-five dollars;
- (2) For all service connected with the preparation and transmission of a settled record to the Supreme Court, including the remittitur from the Supreme Court, fifty dollars;
- (3) For any of the following, twenty-five dollars:
 - (a) Civil cases filed for jury or court trial;
 - (b) Guardianship or conservatorship actions, adoption cases, termination of life estates;
 - (c) Cases to determine amount of inheritance tax in estates in which real and personal property is transferred in contemplation of death;
 - (d) Default actions to quiet title to real property;
 - (e) Default cases involving garnishment proceedings;
 - (f) Dissolutions of corporations;
 - (g) Foreclosure actions;
 - (h) Special administration proceedings;
 - (i) Summary administration proceedings;
 - (j) Appeals to the circuit court from an action of a political subdivision of the state or from an action of the state or its officers, boards, agencies, and commissions; or
 - (k) All matters not otherwise provided for in this section;
- (4) For any of the following, fifty dollars:
 - (a) Petitions and motions to modify final child support orders, except if the petitioner or moving party is a recipient of assistance benefits pursuant to Title 28;
 - (b) Petitions and motions to modify final child custody orders;
 - (c) Petitions and motions to modify final visitation orders;
 - (d) Petitions and motions to modify final spousal support orders;
- (5) For any of the following, five dollars:
 - (a) Issuing a transcript of a judgment;
 - (b) Filing and docketing a transcript of a judgment;
 - (c) Issuing and docketing an execution, commission, or writ;
 - (d) Filing a special execution; or
 - (e) Renewing a judgment according to § 15-16-33;
- (6) For any of the following, two dollars:
 - (a) Reproducing an authenticated, exemplified, or double certificate of a record on file in the clerk's office;
 - (b) Certifying a document not excepted by subdivision (7);

- (c) Issuing a subpoena in a civil case; or
- (d) Safekeeping or filing of a will; and
- (7) All true and correct copies of any original record or paper furnished by the attorney of record or the personal representative qualified to act in any of the following cases which are necessary for the completion of the case shall be certified at no extra charge for the certification:
 - (a) Guardianship or conservatorship actions, adoption cases, termination of life estates, trusts, probate actions;
 - (b) Cases to determine amount of inheritance tax in estates in which real and personal property is transferred in contemplation of death; and
 - (c) Divorce actions.

No fee for filing, docketing, issuing, recording, certifying, or searching, or other fee or commission, may be required of the state, any foreign state, or the federal government, or its officers, boards, agencies, and commissions, or its political subdivisions, in any action or proceeding commenced by the state or a political subdivision. In addition, no fee for record searches may be required of any agency of the federal government which is charged with law enforcement or investigatory duties under federal law.

No filing fee may be required in any action under § 22-19A-8, 22-19A-12, 25-10-3, or 25-10-6.

16-2-29

- ***Distribution of fines and penalties collected for violation of local ordinances.*** Thirty-five percent of all fines, penalties, and forfeitures collected by or through the use of a circuit or magistrate court, clerk, or other court officer for violations of a county, township, municipal or chartered governmental unit's ordinance, charter, or bylaw, shall be paid into the state general fund as provided by chapter 4-3 and sixty-five percent to the appropriate government subdivision treasurer. **16-2-34**

CONSERVATION DISTRICTS Ch 7-2

- ***Petition for consolidation or boundary change--Filing with county auditors--Submission to vote.*** If fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, of each of two or more adjoining counties of this state, petition the board of county commissioners of their respective counties for an election to determine the question of changing the boundary lines or of the consolidation of two or more counties, stating in such petition the names of the counties to be consolidated or boundary lines to be changed, such boards of county commissioners shall at their regular July meeting succeeding the presentation of such petitions provide that the question of consolidation of the counties or the changing of the boundary lines of such counties shall be submitted to a vote at the next general election succeeding the presentation of such petitions. The petitions shall be filed with the county auditors of such counties prior to the first day of the regular July meeting of the board of county commissioners. The auditor of each county where any such petition has been filed shall transmit to the auditor of the other county or counties affected thereby a certified copy or copies of the petition or petitions filed in his county. **7-2-1**
- ***Continuation of terms of officers after consolidation of counties.*** The county officers in each of the counties that may have been consolidated shall continue to act in their respective counties until the officers of the new counties shall have been elected and qualified. **7-2-9**

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CONSTITUTION OF THE UNITED STATES Ch 2-15

- ***Certification of nominees to county auditors.*** It shall be the duty of the secretary of state, as soon as the time for filing nominating petitions in his office has expired, to immediately certify to the several county auditors of the state the names of the persons in whose behalf nominating petitions have been filed as a candidate for delegate. **2-15-5**
- ***Printing of primary election ballots--Form.*** The county auditor shall, after certification by the secretary of state, immediately prepare and have printed official primary election ballots for all delegates, nominated upon a separate ballot, without party or political designation, in substance as follows: **2-15-6**

CONSTABLES Ch 7-13

- ***Appointment and terms of constables--Accountability.*** The board of county commissioners may appoint constables who are registered voters. The constables shall hold office at the pleasure of the board of county commissioners for a term of two years, and until their successors are appointed and qualified. The board of county commissioners may establish guidelines for the accountability of constables. **7-13-1**

COOPERATIVE ACTION AGREEMENTS Ch 1-24

- ***Agreements for cooperative action authorized--Approval by governing bodies.*** Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of §§ 1-24-2 to 1-24-9, inclusive. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force. **1-24-3**

CORONERS Ch 7-14

- ***Reimbursement and source of payment of coroner's expenses.*** The county coroner shall be reimbursed for all necessary and reasonable expenditures incurred in the discharge of his duty as shall be approved by the board of county commissioners and which shall be paid out of the general fund of the county. **7-14-2**

COUNTY COMMISSIONERS Ch 7

- ***Formation of association of county commissioners and elected officials--Powers of association--Appropriations for dues.*** The county commissioners and elected officials of any county may join with the commissioners and elected officials of other counties in formation of an association of county commissioners and elected officials of this state for the purpose of securing concerted action among the counties in behalf of such matters, measures and county affairs as the associations deem to be beneficial to and in the common interest of the counties. Such associations may hold meetings for the discussion and consideration of matters as affect the welfare of the counties. The board of county commissioners may annually appropriate funds for the payment of reasonable annual dues in any such association. **7-7-28**
- ***Number and terms of office of commissioners--Staggered terms.*** Each organized county shall have a board of commissioners consisting of not less than three nor more than seven members, each of whom shall be elected at a general election only and whose term of office shall be four years commencing on the first Tuesday of January following election. Any commissioner who represents an even-numbered district shall run for election at the general election at which

the President is elected; any commissioner who represents an odd-numbered or unnumbered district shall run for election at the general election at which the Governor is elected. **7-8-1**

- ***Payments for research to county commissioners' associations and educational institutions.*** The boards of county commissioners may make payment to the South Dakota county commissioners' and officials' associations for the conduct of research on local government, the employment of research and other personnel, the publication of research studies, and the provision for office expenses. State supported educational institutions may be given financial assistance to conduct research as authorized by this section. **7-7-27**

- ***Revision of commissioner districts after change of county boundaries.*** If the area of any county in this state has been altered by the changing of the boundaries and the county's commissioners do not run at large, the board of county commissioners, at the first regular meeting thereafter, shall establish commissioner districts in the county. The board shall fix boundaries of each district in the manner provided by law for establishing commissioner districts and changing the boundaries of each district insofar as the same is applicable. The commissioner districts established and the boundaries fixed shall remain as established and fixed until changed as provided by law. **7-2-13**

- ***Chair and vice chair--Election--Vacancy--Duties.*** At the first meeting of the board of county commissioners in each year, the board shall elect a chair and vice chair. The chair shall continue to serve as chair until a successor is elected. If there is a vacancy for the chair or vice chair from any cause, the board shall elect another chair or vice chair. The chair or, in the chair's absence, the vice chair shall preside at the meetings of the board and sign all orders and claims approved by the board. **7-8-15**

- ***Change in number of commissioners--Petition and submission at election.*** The number of county commissioners of any county may be increased to five or seven or reduced to five or three. If fifteen percent of the registered voters of the county, based upon the total number of registered voters at the last preceding general election, petition the board of county commissioners for an increase or decrease in the number of county commissioners, the board shall submit the question to a vote of the voters of the county at the next general election. Notice of the submission of such question shall be given in the notice of the general election.

7-8-3

- ***Redistricting and transition after increase in number of commissioners.*** If at such election a majority of all votes cast is for an increase, the board within one hundred eighty days after the votes have been canvassed shall redistrict the county into numbered districts. As to any members of such board whose terms of office extend for an additional two years beyond the next general election, the tenure of office is not affected, and in redistricting the county the board shall designate the districts to be represented by such members. The commissioner shall be a resident of the district that the commissioner is designated to represent. Each district for which representation is not provided by such designations shall, at the next ensuing general election, elect a commissioner, the term of office to be determined as provided in § 7-8-1. **7-8-6**

- ***Redistricting and transition after decrease in number of commissioners.*** If the election results in a majority for a decrease, the five or seven districts are thereby abolished and the board, within one hundred eighty days after the votes have been canvassed, shall redistrict the county into three or five numbered districts from each of which districts a commissioner shall be elected at the next general election, the term of office to be determined as provided in § 7-8-1. **7-8-7**

- ***Closing of courthouse for emergency or severe weather.*** The chair of the board of

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county commissioners may close the courthouse in case of emergency or severe weather. The public shall be adequately notified. An emergency for the purpose of this section is an unforeseen occurrence or combination of circumstances that calls for immediate action or remedy. **7-7-2.1**

- ***Salary of county commissioners.*** The board of county commissioners may determine the salary of the commissioners. Such salary may be set by the board of county commissioners at its first regular meeting of each year. If the board of county commissioners fails to determine a salary, then the salary of a county commissioner in any one year is:

- (1) Seven thousand two hundred thirty-three dollars as per diem or salary in counties of thirty thousand population or over;

- (2) Six thousand five hundred sixty-six dollars as per diem or salary in counties of fifteen thousand population and over and not more than thirty thousand population;

- (3) Five thousand three hundred ninety-seven dollars as per diem or salary in counties of eight thousand population and over and not more than fifteen thousand population;

- (4) Four thousand eight hundred ninety-six dollars as per diem or salary in counties of less than eight thousand population. **7-7-5**

- ***Compensation of county commissioners.*** The method of payment, whether per diem or salary, and the amount of per diem or salary shall be determined by the board of county commissioners in each county. If the per diem method is used, the county commissioners shall be allowed the per diem amount for each day they are actually and necessarily employed in the duties and business relating to county affairs and the duties of their office and in attending and returning from sessions of the board. The county commissioners shall be allowed mileage for the distance actually traveled in attending the meetings of the board, or when engaged in other official duties. The per diem shall be paid out of the general county fund. The per diem shall be set by the commission on the first regular meeting date in January of each year. **7-7-3**

- ***General powers of county commissioners.*** In addition to others specified by law, the board of county commissioners shall have power:

- (1) To institute and prosecute civil actions in the name of the county, for and on behalf of the county;

- (2) To make orders respecting the care and preservation of all property belonging to the county and to sell any real property of the county when authorized by law so to do:

- (3) To levy a tax not exceeding the amount authorized by law, and to liquidate indebtedness;

- (4) To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit;

- (5) To construct and repair bridges; to open, lay out, vacate, and change highways; to purchase or acquire grounds for courthouse, jail, or other building sites, locate or relocate the courthouse on such sites; to establish election precincts in its county and appoint the judges of election; and, as a board of equalization, to equalize the assessment roll of its county in the manner provided by law;

- (6) To furnish necessary blank books, blanks, and stationery for the county auditor, register of deeds, county treasurer, state's attorney, sheriff, and other elected or appointed county officers, to be paid out of the county treasury; also a fireproof safe or vaults, when in its judgment the same shall be advisable, in which to keep all the books, records, vouchers, and papers pertaining to the business of the board;

- (7) To superintend the fiscal concerns of the county and secure their management in the

best possible manner;

(8) To regulate the transaction of business in alcoholic beverages and the use and consumption of alcoholic beverages, to establish the number of on-sale licenses which may be issued, to provide for reasonable classification of on-sale licenses and fix the fees to be charged for the licenses consistent with the provisions of Title 35;

(9) To make ordinances prohibiting the sale or exhibition of any obscene matter; however, no county resolution shall be effective in any incorporated area within said county;

(10) To do and perform such other duties and acts as it is or may hereafter be required to do and perform;

(11) To provide additional compensation to the county treasurer, county auditor, county register of deeds, state's attorney, and sheriff. This compensation shall be in addition to the salaries prescribed in §§ 7-7-9.1, 7-7-12, and 7-12-15;

(12) To provide office space, in addition to that provided in the county courthouse, for state's attorneys, appointed officials of the county and other employees;

(13) To receive and administer grants, loans and assistance and to enter into agreements for cooperative action, with or on behalf of any public agency or nonprofit organization, to establish, promote and support community development;

(14) To enact ordinances to regulate and prevent the placing of ashes, dirt, garbage or any offensive matter in any highway or public ground or in any body or stream of water within the county, but outside of an incorporated municipality or outside of the one mile limits of any incorporated municipality;

(15) To enact ordinances to regulate and compel the cleansing, abatement or removal of any sewer, cesspool or any unwholesome or nauseous thing or place;

(16) To license and regulate transient merchants, hawkers, solicitors, peddlers, itinerant vendors, and every person retailing tangible personal property or services, unless such business is carried on exclusively within the boundaries of a municipality or is carried on through home solicitation or from a fixed permanent location and place of business in this state where such goods and services are offered on a continuing basis;

(17) To enact by ordinance, for any portion of the county which is zoned, certain building codes pursuant to § 11-10-5;

(18) To prohibit or restrict open burning, after consultation with local fire officials and law enforcement officials, in order to protect the public health and safety. **7-8-20**

- **(Firearm) Possession in county courthouse--Misdemeanor.** Except as provided in § 22-14-24, any person who knowingly possesses or causes to be present any firearm or other dangerous weapon, in any county courthouse, or attempts to do so, is guilty of a Class 1 misdemeanor. **22-14-23**

- **County revenues--Economic development.** The board of county commissioners may, by resolution, allocate revenue a county receives for economic development within the county. **7-8-38**

- **Decennial revision of commissioner districts.** The board of county commissioners, at its regular meeting in December of each year ending in the numeral 1, or within three months of the federal decennial census data becoming available, and after giving notice by publication for one week in the official newspapers of the county, shall change the boundaries of the commissioner districts if the change is necessary in order that each district is as regular and compact in form as practicable. The board shall divide and redistrict its county that each district complies with

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the Equal Protection Clause of the Fourteenth Amendment, as determined by the last preceding federal decennial census; or the board may, at that time, choose to have commissioners elected at large. The board may choose to have its members elected from single-member districts, from multi-member districts, or from a hybrid plan of single- and multi-member districts. **7-8-10**

- ***Commissioners elected by voters of district--Moving from district or failing to attend meetings creates vacancy.*** The nomination and election of county commissioners shall be by a vote of the voters of the district of which such candidate is a resident voter. However, if any county commissioner moves from the district to which such person was elected or if any county commissioner fails to attend the commission meetings for four consecutive months, the office shall be declared vacant and such vacancy shall be filled pursuant to chapter 3-4. **7-8-2**

- ***Board as governing body--Election.*** In each county adopting an optional form of county government, the board of county commissioners shall be the governing body of the county and shall exercise all powers authorized by law and the State Constitution applicable to counties except as otherwise provided by this chapter. The board shall be elected in the same manner as provided by chapter 7-8. **7-8A-2**

- ***Construction, improvement, and operation of historical museums.*** The board of county commissioners may provide for the acquisition of sites, purchase, erection, renovation, improvement, remodeling, alteration, operation, addition to, and repairing of county historical museums, or a historical museum owned by an incorporated nonprofit historical association or society, or a historical museum owned by the state located within such county. **7-26-5**

- ***Acquisition of historic sites and objects of historic interest--Preservation and display--Historic site markers.*** The board of county commissioners may, in its discretion, acquire without cost to the county historic sites located in said county and objects of historic interest including newspapers, magazines, and writings of historical interest of any sort or type whatsoever, and may provide in the county courthouse or elsewhere in the said county a room or rooms for the preservation, display, and maintenance of such objects and writings. They may cause to be erected within the said county suitable markers for any such historic site. **7-26-3**

- ***Board action on initiative petition--Submission to voters.*** If a petition to initiate is filed with the auditor, the auditor shall present it to the board of county commissioners at its next regular or special meeting. The board shall enact the proposed ordinance or resolution and shall submit it to a vote of the voters in the manner prescribed for a referendum within sixty days after the final enactment. However, if the petition is filed within three months prior to the primary or general election, the ordinance or resolution may be submitted at the primary or general election. **7-18A-13**

- ***Meetings of county officials for advancement of county government--Authorization.*** County commissioners, county highway superintendents, county auditors, county treasurers, registers of deeds, state's attorneys, sheriffs, county assessing officers, and county coroners are hereby authorized to attend educational conferences, meetings, and conventions held and conducted within or without the State of South Dakota pertaining to the betterment and advancement of county government as authorized by resolution of the board of county commissioners. **7-7-25**

- ***Meetings--County commission--Special sessions.*** The board of county commissioners shall meet and hold sessions for the transaction of business at the courthouse or at the usual place of holding court in January, April, July, and October of each year, and may adjourn from time to time. The county auditor or the chairman of the board of county commissioners may call

special sessions if the interests of the county demand it by giving three days' notice of the special session by mailing a copy of the notice to each of the county commissioners at their designated post office addresses. In case of an emergency, a special session may be called by giving one day's notice to each commissioner by telephone. An emergency for the purpose of this section is an unforeseen occurrence or combination of circumstances that calls for immediate action or remedy. **7-8-14**

- ***Tie vote of commissioners.*** When the board of county commissioners is equally divided on any question, it shall defer a decision until the next meeting of the board and the matter shall then be decided by a majority of the board. **7-8-18**

- ***Mileage allowance for county commissioners.*** The county commissioners shall be paid traveling expenses for each mile traveled in the discharge of their official duties. For the purpose of this section, traveling expense incurred by county commissioners to attend meetings in the State of South Dakota, called for the purposes of instructing or exchange of information pertaining to county officers and government, are miles traveled in the discharge of their official duties. **7-7-4**

- ***Actions against county commissioners for misconduct in office.*** It shall be the duty of the state's attorney to begin and prosecute a civil action or actions on behalf of the county against the county commissioners, or any one or more of them, for malfeasance in office, misappropriation of public funds, or other misconduct whenever there is reasonable cause therefor and he shall be requested so to do by a written petition signed by fifteen resident taxpayers of the county. **7-16-14**

- ***Declaration and abatement of nuisances by county.*** The board of county commissioners of every county may, by ordinance, allow for the declaration and abatement of a public nuisance within the county outside the corporate limits of any municipality. For purposes of this section only, the feeding, breeding, or raising of livestock or the operations of a livestock sales barn, is not presumed, by that fact alone, to be a nuisance. **7-8-33**

- ***Memorial Day observance.*** The board of county commissioners may appropriate funds for the observance of Memorial Day each year. **7-8-24**

- ***Publication and posting of notice of decennial redistricting.*** Whenever the board of county commissioners shall change the boundaries of any commissioner district, as provided in § 7-8-10, it shall publish notice of such change giving the boundaries of the new districts for at least two consecutive weeks in the official paper or papers of the county and when no paper is published in the county, the board shall cause notices to be posted in at least three public places in each commissioner district of which the boundaries have been changed. **7-8-12**

- ***Legislative decision of board subject to referendum--Administrative decision not subject to referendum.*** Any legislative decision of a board of county commissioners is subject to the referendum process. A legislative decision is one that enacts a permanent law or lays down a rule of conduct or course of policy for the guidance of citizens or their officers. Any matter of a permanent or general character is a legislative decision. No administrative decision of a governing body is subject to the referendum process, unless specifically authorized by this code. An administrative decision is one that merely puts into execution a plan already adopted by the governing body itself or by the Legislature. Supervision of a program is an administrative decision. Hiring, disciplining, and setting the salaries of employees are administrative decisions. **7-18A-15.1**

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- ***Rewards for aid in arrest and conviction of felons.*** The county commissioners of any county in this state may offer a standing reward of not more than five thousand dollars for evidence leading to the arrest and conviction of any person or persons guilty of any felony under the laws of this state. They may also in their discretion offer special rewards in reasonable amounts for the purpose of securing the arrest and conviction of any person or persons charged with a felony in any particular case. **7-8-20.1**
- ***Rights-of-way on highways granted by county commissioners.*** The board of county commissioners may grant the right of constructing, laying, maintaining, and operating on any highway under its jurisdiction, pipelines and gas mains for the transportation of natural or artificial gas. **7-8-23**
- ***Sale and lease-back powers additional--Restrictions on exercise.*** The powers conferred by § 7-25-19 are in addition to all other powers conferred upon the board of county commissioners of any county, and their exercise shall be subject only to such restrictions as may be provided by the South Dakota Constitution and are not subject to any restrictions or procedural requirements prescribed by any other law. **7-25-20**
- ***Attendance on courts and county commissioners.*** The sheriff shall attend the sessions of the circuit court and the sessions of the board of county commissioners when required by the board to attend. **7-12-3**
- ***Commissioners authorized to provide system.*** The board of county commissioners in each county of the state is authorized to plan, organize, and provide a solid wastes management system to adequately handle solid wastes generated or existing within the boundaries of such county. **7-33-1**
- ***Distribution of surplus commodities.*** The board of county commissioners shall have power to cooperate with the federal or state government or any duly constituted agency thereof by expending moneys for the care and distribution of federal surplus commodities, employing clerical help, office space, office supplies and equipment, telephone, and telegrams, and other incidental expenses and to pay for same out of the general fund and such cooperation shall include fixing of responsibility by designation of a single administrator or officer for the purpose of determining eligibility and supervising distribution and accountability, or the board may request the division of social welfare in writing to determine eligibility, relative to surplus commodities for the needy as defined in Title 28 and acts amendatory thereto. **7-8-25**

COUNTY LEGAL EXPENSE RELIEF FUND Ch 7-16B

- ***County legal expense relief fund established--Administration.*** There is established at the association of county commissioners a county legal expense relief fund administered by the county legal expense relief board created pursuant to § 7-16B-22. Expenditures from the fund shall be approved by the board. **7-16B-13**
- ***Application for funds--Qualifying amount of expenses.*** Any participating county may apply to the board for funds from the county legal expense relief fund if that county has incurred expenses related to any one criminal prosecution resulting in a court trial that are in excess of twenty-five thousand dollars. The application shall include such information as the board may prescribe. **7-16B-16**
- ***Approval of application and disbursements--Amount.*** The board established pursuant to § 7-16B-22 shall determine if the application is in order and the claim is justified and may approve disbursements to the county for ninety percent of any expenses related to any one

criminal prosecution resulting in a court trial which qualifies pursuant to § 7-16B-16 and may continue to reimburse the county for ninety percent of the expenses for that trial. Reimbursement pursuant to this section shall be made only upon that portion of the legal expenses related to such criminal prosecution resulting in a court trial which is in excess of the qualifying amount set forth in § 7-16B-16. **7-16B-17**

- **County legal expense relief board established--Appointment and term of members--Payment of board's costs.** There is established a county legal expense relief board to consist of five county commissioners from participating counties appointed by the executive board of the association of county commissioners established pursuant to § 7-7-28. The executive board of the association may appoint an alternate board member to serve when the county legal expense relief board does not have a quorum at meeting. The alternate board member may be a county commissioner or a county manager appointed pursuant to § 7-8A-4. Board members shall serve staggered terms of four years or until their term as county commissioner has expired. Per diem costs for the board shall be established by the executive board of the association and shall be paid from funds collected by the association. **7-16B-22**

COUNTY MANAGER Ch 7-8A

- **Appointment of county manager.** The board of county commissioners may appoint any county officer or employee to be the county manager by reason of training, experience, and administrative qualifications. If any county officer or employee is appointed county manager, the officer or employee shall resign the office or position and terminate office responsibilities before assuming the office of county manager. **7-8A-4**

- **County manager--Duties and qualifications.** The board of county commissioners-appointed manager form of government shall be that form in which the chief administrative officer is the county manager. The county manager shall be the administrative head of the county and is responsible for the proper administration of the affairs of county government. The county manager shall be appointed solely on the basis of his training, experience, and administrative qualifications and need not be a resident of the county. He shall serve at the pleasure of the board at a salary set by the board. **7-8A-3.**

- **Duties of county manager.** The county manager shall:
 - (1) Provide for the proper execution of all orders, resolutions, and regulations established by the board;
 - (2) Attend all meetings of the board and recommend measures for adoption;
 - (3) Prepare and submit to the county board a proposed annual budget and long-range capital expenditure program, along with a financial plan for raising revenue, for such a period as the board may direct;
 - (4) Administer the provisions of the budget when adopted by the board;
 - (5) Keep the board fully advised of the financial condition and needs of the county and make such other reports from time to time as required by the board or he deems necessary;
 - (6) Appoint and hire qualified staff to assist in the proper administration of the county affairs; and
 - (7) Perform such other duties as may be required of him by the board. **7-8A-5**

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COUNTY POOR RELIEF Ch 28-13A

- ***Establishment--Administration--Expenditures.*** There is established a catastrophic county poor relief fund administered by the South Dakota Association of County Commissioners and the board of catastrophic county poor relief. Expenditures from the fund, including the cost to administer the program, shall be approved by the board. **28-13A-1**

COUNTY SEATS Ch 7

- ***Petition and election on change of county seat--Publication of notice.*** If fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, of any organized county petition the board of county commissioners to change the location of the county seat which has once been located by majority vote, specifying the place to which it is to be changed, the board shall submit the same to the people of the county at the next general election. Notice of the submission of the question shall be included in the notice published once by the county auditor giving notice of the time and place of holding the general election. **7-6-4**
- ***Treasurer as collector of taxes--Office at county seat--Receipt of county money.*** The county treasurer is the collector of taxes. The treasurer shall maintain an office at the county seat. The treasurer shall receive all money belonging to the county from whatever source derived and other money which by law is directed to be paid to the treasurer. **7-11-1**
- ***Office at county seat--Service and posting of notices.*** The sheriff shall keep the office at the county seat, serve or post all notices received from the county auditor or the board of county commissioners, and perform other duties as prescribed by law. **7-12-2**

COURTS - CIRCUIT Ch 16-5 & 16-6

- ***Special terms of courts of record--Order filed with clerk--Powers at special term.*** At any time he may deem it necessary or advisable, the judge of any trial court of record may order a special term to be held, by written order filed with the clerk at least fifteen days before the opening of such term. Anything which may be done at a regular term may be done at a special term. **16-5-15**
- ***Courtroom facilities for circuit judges provided by counties.*** The board of county commissioners in every county in this state may provide the circuit judge of the judicial circuit of which such county forms a part with suitable and sufficient courtroom facilities and equip the same to conduct the business of the court at a place other than the county seat of such county. **16-6-7**
- ***Circuit court jurisdiction as to persons detained.*** The circuit court has jurisdiction to inquire into the cause of detention of all persons confined in the jail of the county or otherwise detained, and to make an order for their recommitment or discharge, or otherwise according to law, and to exercise such other powers as are conferred by the Constitution and statutes of this state. **16-6-14**
- ***Circuit court writs in exercise of powers.*** The circuit court has the power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, and all other writs necessary to carry into effect its judgments, decrees, and orders, and to give to it a general control over inferior courts, officers, boards, tribunals, corporations, and persons. **16-6-15**
- ***Issues of fact tried in proper county--Order at chambers any place within state.*** Issues of fact in any civil or criminal action in the circuit court shall be tried in the county in which the

action is brought, or to which the place of trial is changed by order of the court upon the consent of the parties to such action or their attorneys, or upon the grounds now or hereafter provided by law. Nothing in this section or § 16-6-16 prevents the judge of any circuit court from making any order at chambers at any place within the state in any matter properly before the judge. **16-6-17**

- ***Circuit judge as judge in any circuit--Effect of acts in other circuits--Separation from office.*** A judge of the circuit court is a judge of the circuit court in the State of South Dakota and in any circuit in which he acts as a judge. The orders, judgments, and decrees of a circuit judge acting in a county other than one in his own circuit shall be as effectual for all purposes as though made by a judge regularly elected and qualified therein; and such judge so acting, so long as he is a circuit judge, may thereafter enforce, amend, or vacate any order, decree, or judgment made by him, but in case of his separation from office or upon his request, the judge regularly elected for such circuit shall have such power and authority. **16-6-29**

COURTS - MAGISTRATE Ch 16-12A

- ***Magistrate court established within each circuit.*** Pursuant to the provisions of S.D. Const., Art. V, § 4, there is hereby established within each judicial circuit a magistrate court.

16-12A-2.2

- ***Number of magistrates appointed.*** Subject to such rules as may be promulgated by the Supreme Court, the presiding circuit judge in each judicial circuit shall appoint a sufficient number of magistrates as may be necessary to provide adequate and qualified judicial personnel for each county and municipality in the circuit. **16-12A-3.3**

- ***Appointment and tenure of magistrates--Terms of office.*** Each magistrate shall be appointed by the presiding judge of the circuit court and serve at the pleasure of the presiding judge. However, the Supreme Court may, by rule, provide that magistrates may be appointed for a definite term. **16-12A-4.2**

- ***Counties to provide facilities for court.*** Each county in the state shall provide suitable and adequate facilities for the magistrate court, including the facilities necessary to make the space provided functional for its intended use. **16-12A-29.1**

- ***Right of appeal to circuit court.*** Unless appeal is denied by law, there is a right of appeal to the circuit court from any final order or judgment of the magistrate court, and such appeal shall be taken in the manner prescribed by law or rule for appeals to the circuit court.

16-12A-27.1

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DAMS ON LEASED LANDS

- ***Permit to build dam on leased land.*** Any lessee of county real estate of the character described in § 7-30-1 shall upon application to the board of county commissioners be granted a permit to build a dam on the leased land for the collection and storage of surface water thereon, if the written approval of the federal district range program inspector of the site of the proposed dam and reservoir is attached to said application. **7-30-15**

DAY CARE CENTERS

- ***Establishment and support of day care centers by counties and municipalities.*** The boards of county commissioners of the several counties and the governing boards of municipalities may establish and maintain day care centers as defined in subdivision 26-6-14(3), and may contribute sums of money annually to establish, promote, and support nonprofit organizations engaged in such programs. **26-6-18.1**

DEBTS Ch 7-21

- ***Debts and liabilities exceeding appropriated amounts prohibited.*** Unless specially and expressly authorized by law, it shall be unlawful for the board of county commissioners or any member thereof, or for any officer of any county or any employee thereof in charge of any institution or agency of a county, to contract any indebtedness or incur any liabilities for or in behalf of the county, in any manner whatsoever, either for a purpose, object, or item for which no appropriation is provided in the budget of such county for the fiscal year in which such indebtedness is attempted to be contracted or liability attempted to be created, or in excess of the amount of any specific appropriation for any purpose, object, or item set forth in the budgets of such county, for the fiscal year in which such indebtedness is attempted to be contracted or liability attempted to be created. **7-21-25**
- ***Personal liability of officers and employees creating or paying debts exceeding appropriated amounts.*** All officers, boards, and members of boards, employees, and all other persons authorizing, contracting, or incurring, or attempting to authorize, contract, or incur any indebtedness or liability for or in behalf of any county or any institution or agency thereof in violation of the provisions of this chapter, or auditing, allowing, ordering paid, drawing, or issuing warrants in payment of, or paying any claims or demands upon or against a county or any institution or agency thereof, for any liability or indebtedness attempted to be created or incurred in violation of the provisions of this chapter shall be jointly and severally liable in person and on their official bonds to the county or to the institution or agency thereof of which they are officers or employees, to the extent of any payment or payments made on such void claims. **7-21-27**
- ***Debts and liabilities exceeding maximum tax levy prohibited.*** It shall be unlawful for the officers of any county, unless specially and expressly authorized by law, to contract any debt or incur any pecuniary liability, unless both the principal and annual interest thereof, in addition to other necessary disbursements, can be paid by the levy for the current year on the taxable property within the county at not exceeding the maximum rate prescribed by law; or in case such levy for the current year has been made, then by levy for the next subsequent year at not exceeding such maximum rate. **7-21-16**
- ***Contracts exceeding maximum tax levy void--Personal liability of consenting officers--Dissent to be recorded.*** Each contract made in violation of the provisions of § 7-21-16 is null and void in regard to any obligation thereby purported to be imposed on the county. However,

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any officer who made or authorized the contract is individually liable for its performance. Each officer present when the unlawful contract is made, or authorized to be made is deemed to have participated in the making or authorization of the contract, unless the officer dissents therefrom and enters, or causes to be entered, such dissent on the records of the county. **7-21-17**

DEPOSITS OF COUNTY FUNDS Ch 7-20

- ***Maximum deposit in one bank.*** No bank at any time shall have on deposit county funds of any one county in excess of one hundred percent of the capital and surplus of such bank.

7-20-10

- ***Active depositories not limited by maximum amount--Authority to exceed statutory maximum.*** The limit of deposit which may be carried or deposited in any bank by the county treasurer, as provided in § 7-20-10, does not apply to any bank designated as active depositories. However, no county treasurer may deposit in a bank more than the limit provided for by § 7-20-10 unless the county treasurer receives express authority from the board of county commissioners evidenced by a resolution of such board authorizing the deposit of a greater amount. **7-20-14**

- ***Selection of active depositories.*** In selecting depositories for the deposit of county funds, the board of county commissioners may designate one or more banks within the county as active depositories for the deposit and withdrawal, by the county treasurer, of daily receipts of cash, checks, drafts, and other cash items. **7-20-13**

- ***Banks eligible for deposits--Application for deposit.*** The county treasurer shall deposit and at all times keep on deposit the money in state or national banks within the county. If the deposits exceed the limit prescribed in § 7-20-10 or if there is but one bank located within the county then the deposits may be made in other banks or branch banks within an adjacent county of this state having an approved and responsible financial standing. A bank may apply for the privilege of keeping the county funds and shall state in the application the amount of money desired. If bond or securities are segregated as provided in § 4-6A-3, the board of county commissioners shall approve the application. **7-20-1**

- ***Deposit and investment of debt service fund moneys--Resolution of county commissioners.*** Every county maintaining a debt service fund for the payment of outstanding bonds shall keep the accumulations in said debt service fund deposited with the lawful depositories or invested in registered warrants or bonds of any municipal or public corporation of the State of South Dakota, including those of the county issuing such bonds, or bonds, notes, or other obligations issued by any federal land bank, federal intermediate credit bank, bank for cooperatives, or any or all of the federal farm credit banks, or obligations of the United States, or bonds or securities of any kind issued by the State of South Dakota, and the interest accruing on such investment shall be credited to such debt service fund. Moneys in any debt service fund shall be invested only in such of the above-named securities as will become due and payable on or before the date when the bonds for the payment of which such debt service fund was created become due and payable, except bonds of the United States or of the State of South Dakota. Where such debt service fund is invested in other bonds of such county, there shall be a levy of a tax upon the taxable property of such county of sufficient amount to pay the interest and also the principal thereof when due and such tax, when collected, shall be returned to the debt service fund for that purpose. In carrying out the provisions of this section, all transactions shall be by resolution of the board of county commissioners which resolution shall be regularly filed and

recorded with the county auditor as a public record. **7-24-19**

- ***Removal of officer neglecting to comply--Treasurer not liable for loss of money deposited in compliance.*** Any county officer neglecting or refusing to comply with the provisions of §§ 7-20-1 to 7-20-11, inclusive, is subject to removal from office. No county treasurer is liable on the county treasurer's official bond for any loss of money deposited in compliance with the provisions of these sections. **7-20-12**

- ***Domestic federal credit union as official depository--Requirement.*** Any domestic federal credit union chartered by the United States is a qualified public depository for county funds if such funds are invested in accounts which are insured by the National Credit Union Administration. **7-20-1.2**

- ***Deposit permitted despite interest of county official.*** A bank may be selected as a depository for the keeping of county funds notwithstanding a county official may be a stockholder or officer therein, nor shall such action constitute a crime on the part of such county official. **7-20-3**

- ***Forms of deposit--Crediting of interest from deposits--Signatures required on checks.*** All moneys shall be deposited in such banks in demand accounts, savings accounts, or on time deposit, and any interest accrued from such deposits shall be credited to the respective funds or the general fund. All such demand deposits are subject to payment if demanded by the county treasurer on the county treasurer's check, countersigned by the county auditor. **7-20-9**

- ***Savings and loan associations as official depositories--Requirements--Maximum amount.*** Domestic savings and loan associations whether chartered by this state or by the United States are official depositories for county funds; provided such funds are invested only in the accounts of such associations which are insured by the Federal Savings and Loan Insurance Corporation. The amount so invested in any one association may not exceed the amount which is covered by such insurance unless such association qualifies as a savings and loan depository as provided by chapter 4-6A. Such funds shall only be deposited with savings and loan associations located within the county where the funds originate. If there is but one such association located within the county, then such deposit may be made in other savings and loan depositories within an adjacent county. **7-20-1.1**

DEVELOPMENTALLY DISABLED PERSONS Ch 27B-4

- ***County budgeting and appropriations for community service providers.*** Each county may annually budget and appropriate funds for the establishment, support, or operation of community service providers pursuant to § 27A-5-9. **27B-4-9**

- ***County and municipal contributions to mental health centers, clinics, and community support providers.*** The boards of county commissioners and the municipal governing bodies may contribute sums of money annually from their general fund to any mental health center, clinic, or community support provider approved by the Department of Social Services, or to each of such facilities, without regard to whether they are within or outside of their respective jurisdictions. **27A-5-9**

DISCRIMINATION Ch 20-12

- ***Authority of municipality and county to investigate discriminatory practices.*** Any municipality or county may investigate any discriminatory practices based on sex, race, color, creed, religion, ancestry, disability, familial status, or national origin, with respect to

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employment, labor union membership, housing accommodations, property rights, education, public accommodations, or public services. **20-12-4**

- ***Commissions on human relations authorized--Purposes and powers.*** To effectuate the foregoing policy municipalities and counties may establish a commission on human relations which may act to disseminate information, to engage in and co-operate with programs of research and education, to co-operate with persons or groups interested in similar objectives, to conduct public meetings and hearings, to mediate and conciliate in instances of alleged discrimination, and to initiate and hear complaints alleging discrimination with such investigation and inquiry as may reasonably appear necessary. **20-12-5**

DISSOLUTION OF COUNTY ORGANIZATION Ch 7-5

- ***Petition and election on abolishment of county organization--Form of ballot.*** Whenever not less than fifteen percent of the registered voters of any organized county in this state, based upon the total number of registered voters at the last preceding general election, shall on or before the first day of July in any general election year, file in the office of the county auditor a petition requesting that the organization of such county be dissolved and that it thereafter be and become an unorganized county, the county auditor shall at the next regular election, submit to the legal voters of said county on a separate printed ballot the following question:

Shall the county organization of _____ county be abolished?

☐ Yes

☐ No

All voters in favor of abolishing such county organization shall place either a cross (x) or check mark (.) in the square before the word Yes on the ballot. All voters who do not favor the abolishment of such county organization shall place either a cross (x) or check mark (.) in the square before the word No on the ballot. **7-5-1**

- ***Governor's proclamation of dissolution of county organization--Notice--Effective date.*** Upon such designation by the Legislature, the Governor shall publicly proclaim the result of such election and of the designation of the county to which such disorganizing county shall be attached for state and judicial purposes, and officially notify the county auditor of the counties interested, and the disorganization of such county and its status as an unorganized county shall be in full force and effect on the first day of the month following such proclamation by the Governor. **7-5-5**

DIVISION OF COUNTIES Ch 7-3

- ***Petition for division of county--Contents and filing--Minimum size of new county.*** If fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, residing in any portion consisting of not less than twenty-four congressional townships or any portion consisting of not less than one hundred million dollars of real property valuation of any organized county in this state shall petition the county commissioners of such county for division thereof and for the organization of a new county or counties, setting forth in the petition the lines upon which the petitioners desire such county to be divided and the boundaries of the proposed new county or counties, together with the name or names they desire to be given the proposed new county or counties in which such petitioners reside, the county commissioners of such county shall submit the question of the division of such county to the voters thereof at the next general election. Such petition must be filed with the

county auditor not later than the first Monday in July of any general election year. Each county shall, after division as prayed for in such petition, contain not less than twenty-four congressional townships or not less than one hundred million dollars of real property valuation, or no election may be ordered. **7-3-1**

- ***Voters' approval of division--Name and organization of new county.*** If a majority of the votes cast at the next general election in such county, and also in each portion thereof proposed to be organized into a new county, shall be favorable to a division of such county, the portion in which the county seat thereof is located shall retain the name and organization of such county and the portion or portions in which the county seat is not located shall take the name or names prayed for in the petition for the division of the county, and the Governor shall forthwith proceed to organize the same as a county or counties under such name or names in the manner provided by law for organizing an unorganized county and, until such organization is perfected, the said portion or portions of such county shall for all governmental purposes remain and be a portion of such original county. **7-3-2**

- ***Apportionment of floating or warrant indebtedness on division of county--Bond issue by new county to cover proportionate share.*** The floating or warrant indebtedness of such original county shall also be apportioned in the same manner to each division and each new county shall be charged with, assume, and pay the amount so apportioned to it. In any case where, at an election on the question of division of an organized county held pursuant to the provisions of this chapter, there has also been submitted the question of issuing the funding bonds of the county proposed to be divided, and a majority of the votes cast at such election was in favor of the issuance of such funding bonds, or where the funding bonds of such original county have been previously ordered to be issued by a majority vote of the voters thereof voting thereon and the same have not been issued prior to the division of such original county; then, and in either of such events, each new county so created, as well as the original county, shall be and is authorized to issue its bonds for the purpose of funding such proportion of the warrant indebtedness of the original county as has been allotted to it. Such bonds shall be issued in the manner provided by law, except that the proposition of issuing the same need not again be submitted to a vote of the voters of any of such counties. **7-3-5**

DOGS OR ANIMALS Ch 40-34

- ***Animal control program in counties--Impounding of animals--Contracts with municipalities.*** The board of county commissioners of each county may establish an animal control program within the areas of the county outside of municipalities, and have the power to establish a pound or pounds, appoint poundmasters, and regulate the impounding of all animals, or for the purposes of providing animal control may contract with a municipality having a pound or a humane society established pursuant to chapter 40-2. **40-34-9**

- ***Running at large prohibited by county--County license or tax on dogs.*** The board of county commissioners of each of the counties of the State of South Dakota shall have the power to regulate, restrain, or prohibit the running at large of dogs and to impose a license or tax on all dogs not licensed or taxed under municipal ordinance, owned or kept by any person within the county. **40-34-5**

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DRAINAGE Ch 46A-10

- ***County drainage commission--Appointment--Filling vacancies--Majority required to act--Ex officio members.*** The board of county commissioners of each county may appoint a commission of three or more members, the total membership of which shall always be an uneven number and at least one member of which shall be a member of the board, to be known as the county drainage commission. If a commission member resigns his or her position, is unable to fulfill the duties of the position, or is removed for cause under the provisions of § 46A-10A-3, the board shall appoint a new member to the commission within thirty days. A commission may not conduct official business unless all memberships on the commission are filled and unless a majority of the members are present at a meeting of the commission. Administrative officials of the county may be appointed as ex officio members of the commission, but have no vote in commission matters. **46A-10A-2**
- ***Term and removal of members.*** The term of office for members of a county drainage commission shall be established by the board of county commissioners. Any appointed member of a county drainage commission may be removed for cause, after a hearing prior to the expiration of his term, by a majority vote of the elected members of the board of county commissioners. **46A-10A-3**
- ***Meetings.*** A drainage commission shall meet at such times as may be necessary to accomplish the purposes of this chapter, but a commission may not meet less than once every six months. **46A-10A-4**
- ***Compensation of members.*** Per diem and expenses of a county drainage commission shall be established by the board of county commissioners and paid by the county. **46A-10A-5**
- ***Joint drainage efforts by counties.*** The boards or commissions of two or more counties may cooperate on drainage. Expenses incurred in connection with joint efforts, including contracted services, shall be shared equitably per agreement among the counties involved. Promotion of regional drainage projects, coordinated drainage areas and drainage patterns or schemes, including passage of compatible ordinances and resolutions in adjoining counties, is the primary but not exclusive objective of joint efforts. **46A-10A-9**
- ***Legal controls for drainage management--Right to continue existing drainage.*** Official controls instituted by a board may include specific ordinances, resolutions, orders, regulations, or other such legal controls pertaining to other elements incorporated in a drainage plan, project, or area or establishing standards and procedures to be employed toward drainage management. Any such ordinances, resolutions, regulations, or controls shall embody the basic principle that any rural land which drains onto other rural land has a right to continue such drainage if:
 - (1) The land receiving the drainage remains rural in character;
 - (2) The land being drained is used in a reasonable manner;
 - (3) The drainage creates no unreasonable hardship or injury to the owner of the land receiving the drainage;
 - (4) The drainage is natural and occurs by means of a natural water course or established water course;
 - (5) The owner of the land being drained does not substantially alter on a permanent basis the course of flow, the amount of flow, or the time of flow from that which would occur; and
 - (6) No other feasible alternative drainage system is available that will produce less harm without substantially greater cost to the owner of the land being drained.

Such provisions do not necessarily apply within municipalities, but if a municipality drains water onto rural lands lying outside the boundaries of the municipality, the municipality is subject to the above provisions, if adopted by the board. **46A-10A-20**

- ***Petition for election on adoption of plan--Notice of election--Ballots--Suspension of effective date--Inconsistent drainage efforts prohibited.*** Within twenty days of publication, five percent of the voters, as determined by the total number of votes cast for Governor in the county at the last gubernatorial election, may petition to have the question of adoption or rejection of a county drainage plan, or any part, adjunct, amendment, or addition thereto, placed on the ballot at the next primary or general election to be held more than sixty days after filing of the petition with the county auditor, whichever occurs first. The county auditor shall give notice of the fact that the question will be on the ballot at the primary or general election, as provided by law, for such elections and shall prepare official ballots according to the provisions of this code relating to elections and the submission of questions to the voters. The effective date of a county drainage plan or part, adjunct, amendment, or addition thereto on which a referendum is to be held shall be suspended by the filing of a referendum petition until the referendum process is completed. However, when a drainage plan or part, adjunct, amendment, or addition thereto is referred to a referendum vote, no drainage efforts that are inconsistent with the plan or part, adjunct, amendment, or addition thereto may be established between the time of adoption of the plan by the county commission, as provided in § 46A-10A-23, and the time of the referendum vote.

46A-10A-25

- ***Responsibilities for drainage projects.*** A commission, if one is established, may discuss and make recommendations on drainage projects, but the board shall be responsible for the petition process, hearing process, bidding process, construction process, and maintenance of drainage projects. Drainage project processes shall be as outlined under §§ 46A-10A-58 to 46A-10A-97, inclusive. **46A-10A-57**

- ***Injury or obstruction of drainage as misdemeanor--Civil liability.*** Any person who intentionally removes a surveyor's stake set along the line of a drain, obstructs or injures a drain or watercourse used for drainage, or breaks down or injures a levee governed by the provisions of this chapter and chapter 46A-11:

- (1) Is guilty of a Class 2 misdemeanor; and
- (2) Is liable for damages in an amount required to repair the injury, such damages to be recovered in a civil action by the board. Damages, when collected, shall be deposited with the county treasurer and credited to the construction and maintenance fund of the project.

46A-10A-90

- ***Approval required to alter drainage rights established with federal or state funds.***

Drainage rights established by state and federal funds in state financed public improvements only may be altered or affected by the board of county commissioners or drainage commission after approval and concurrence by official action of the state agency administering such state or federal funds. **46A-10A-93**

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DRUG EDUCATION PROGRAMS Ch 34-3B

- ***Drug abuse prevention and rehabilitation programs authorized--Scope--Contributions to nonprofit organizations.*** The boards of county commissioners of the several counties and the governing bodies of municipalities are authorized to:

- (1) Create and operate programs for alerting area citizens to the present incidence, causes and nature of misuse and abuse of drugs, including alcohol, and substances and their effects;

- (2) Create and apply broad, coordinated, and effective remedial programs to reduce the drug misuse and abuse problem, including preventive and rehabilitative countermeasures to the drug misuse and abuse problem;

- (3) Institute both preventive and rehabilitative community programs among youth and adult groups; and

- (4) Contribute sums of money annually to establish, promote, and support nonprofit organizations engaged in preventive or rehabilitative community programs among youth or adult groups. **34-3B-1**

- ***General fund appropriations authorized for drug abuse programs.*** For the purpose of carrying out this chapter, the boards of county commissioners shall appropriate money out of the general fund of their respective counties and the governing bodies of municipalities may appropriate money out of the general fund of their respective municipalities. **34-3B-3**

EASEMENTS

- ***Acquisition of easements.*** An easement for a drainage right may be acquired by the existence of a drainage ditch for a period of at least twenty consecutive years, by purchase or grant of easement from the owner of land through which the ditch will pass, or by condemnation under the provisions of this chapter and chapter 46A-11. **46A-10A-67**
- ***Acquisition of historical easements.*** Any county or municipality may acquire, by purchase, donation, or condemnation, historic easements in any area within its respective jurisdiction wherever and to the extent that the governing body of the county or municipality determines the acquisition to be in the public interest. For the purpose of this section, the term, historic easement, means any easement, restriction, covenant, or condition running with the land, designated to preserve, maintain, or enhance all or part of the existing state of places of historical, architectural, archaeological, paleontological, or cultural significance. **1-19B-16**

ECONOMIC DEVELOPMENT Ch 7-8 & 7-18

- ***County revenues--Economic development.*** The board of county commissioners may, by resolution, allocate revenue a county receives for economic development within the county. **7-8-38**
- ***Rental facilities for economic development--Agreements for joint or cooperative action.*** Any county, in order to accomplish the purposes provided in chapter 9-54, may enter into agreements with any other public agency or agencies for joint or cooperative action and such agreements shall be governed by the provisions of chapter 1-24. **7-18-17**

ELECTED OFFICIALS Ch 7-7

- ***Formation of association of county commissioners and elected officials--Powers of association--Appropriations for dues.*** The county commissioners and elected officials of any county may join with the commissioners and elected officials of other counties in formation of an association of county commissioners and elected officials of this state for the purpose of securing concerted action among the counties in behalf of such matters, measures and county affairs as the associations deem to be beneficial to and in the common interest of the counties. Such associations may hold meetings for the discussion and consideration of matters as affect the welfare of the counties. The board of county commissioners may annually appropriate funds for the payment of reasonable annual dues in any such association. **7-7-28**

ELECTIONS - GENERALLY

- ***Absentee ballot--Persons entitled to vote.*** A registered voter who is not otherwise disqualified by law from voting in the election may vote by absentee ballot. **12-19-1**
- ***Contracting for services of county auditor from another county.*** If a county contracts for the services of a county auditor from another county, that county auditor shall make absentee ballots available in the contracting county if the contracting county requests that absentee ballots be provided. The contracting county shall reimburse the county auditor for the costs incurred pursuant to this section. **12-19-53**
- ***Statement of intention to establish airport--Protest by voters--Submission to vote.*** If the question of establishing a county airport has not previously been approved by a majority vote of the voters at an election at which the question was submitted, then any county desiring to establish and construct an airport shall state in the next published report of the county's

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proceedings the county's intention to establish and construct the airport stating the maximum amount which might be required to do so. If within sixty days from the publication a protest signed by fifteen percent of the voters of the county voting for Governor at the last general election be filed with the county commissioners, then no action may be taken until the question has been submitted to a vote of the people and sixty percent of those voting shall vote in favor thereof. The question to be so submitted shall be, "Shall the county expend an amount not to exceed \$ _____ to establish and construct an airport?" **50-7-7**

- ***Preparation for voting--Booths, electronic ballot marking system, and supplies to be provided--Private voting required.*** The superintendent of the election precinct is responsible for having the polling place ready to accommodate the voters in the precinct by the time the polls open. The booths, electronic ballot marking system, and supplies which enable the voter to complete the voter's ballot shall be provided by the person in charge of the election. If a voter chooses to use a sip and puff device or an A/B switch device with the electronic ballot marking system, the voter shall provide such device. All voting at the polling place shall be in private voting booths or compartments and, except as provided in § 12-18-25, shall be screened from observation. **12-18-1**

- ***Registered persons entitled to vote--Voting on acknowledgment notice--Verification with auditor--Emergency voting card.*** Any person whose name appears on the precinct registration list may vote at that election. However, if a person's name does not appear on the registration list, but the person does present an acknowledgment notice, the person shall be permitted to vote if one of the members of the precinct election board communicates with the office of the county auditor and confirms that the person's name was erroneously omitted from the list. If it is not possible to communicate with the office of county auditor, the person may vote after executing an emergency voting card pursuant to § 12-18-7.2. **12-18-7.1**

- ***Assistance of disabled or illiterate voter by person of his choice.*** Any voter who by reason of physical disability or illiteracy is unable to read or mark a ballot may receive the assistance of any person whom such voter may select. **12-18-25**

- ***Capabilities required of automatic tabulating, direct recording electronic, or electronic ballot marking systems--Approval of changes or modifications.*** Any automatic tabulating, direct recording electronic, or electronic ballot marking system used in an election shall enable the voter to cast a vote for all offices and on all measures on which the voter is entitled to vote. Each system shall fulfill the requirements for election assistance commission standards certification and be approved by the State Board of Elections prior to distribution and use in this state. No system may be approved unless the system fulfills the requirements as established by the State Board of Elections. Any changes or modifications to an approved system shall be approved by the State Board of Elections prior to distribution and use. **12-17B-2**

- ***The county auditor shall provide printed ballots for each election in which the voters of the entire county participate.*** Except as provided in § 12-6-9, printed ballots for a primary election shall contain the name of each candidate who has filed for nomination and is approved. The printed ballots for the election of officers shall contain the name of each candidate whose nomination has been certified or filed with the county auditor in the manner provided by law unless the candidate is deemed elected by having no opposition. The names of the candidates shall appear on the ballot exactly as listed in the declaration of candidacy of the candidates' nominating petitions. Sample ballots shall be printed on paper of a different color from the official ballot but in the same form. The sample ballots and official ballots shall be printed and in

the possession of the county auditor not later than forty-eight days prior to a primary or general election. However, if there is a challenge pursuant to § 12-1-13 or 12-1-16, official ballots may not be printed until the challenge has been resolved or until sixty days prior to the primary or general election, whichever occurs first. The county auditor shall also prepare the necessary ballots if any question is required to be submitted to the voters of the county. Ballots for general elections shall be of the style and form prescribed in §§ 12-16-2 to 12-16-11, inclusive. **12-16-1**

- **Election on bonds--Issuance.** Bonds shall be authorized, issued and sold as provided in chapter 6-8B if a majority of all registered voters voting at the bond election authorize the bond issue. **7-24-2**

- **Petition for consolidation or boundary change--Filing with county auditors--Submission to vote.** If fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, of each of two or more adjoining counties of this state, petition the board of county commissioners of their respective counties for an election to determine the question of changing the boundary lines or of the consolidation of two or more counties, stating in such petition the names of the counties to be consolidated or boundary lines to be changed, such boards of county commissioners shall at their regular July meeting succeeding the presentation of such petitions provide that the question of consolidation of the counties or the changing of the boundary lines of such counties shall be submitted to a vote at the next general election succeeding the presentation of such petitions. The petitions shall be filed with the county auditors of such counties prior to the first day of the regular July meeting of the board of county commissioners. The auditor of each county where any such petition has been filed shall transmit to the auditor of the other county or counties affected thereby a certified copy or copies of the petition or petitions filed in his county. **7-2-1**

- **Revision of commissioner districts after division of county.** Whenever the area of any county in this state has been altered by division or by the changing of its boundaries, it shall be the duty of the board of county commissioners of such county, at the first regular meeting thereafter, to establish commissioner districts in such county and fix the boundaries thereof in the manner provided by law for establishing commissioner districts and changing the boundaries thereof insofar as the same is applicable. Such commissioner districts so established and the boundaries so fixed shall remain as established and fixed until the same may be changed as provided by law. Whenever the organization of a new county results from such alteration, the same duty shall devolve upon the commissioners of the new county. **7-3-3**

- **Filing of statements by candidates for local office--Violation as petty offense--Intentional violation as misdemeanor.** Each candidate for county commissioner, school board member in a school district with a total enrollment of more than two thousand students, or commissioner, council member, or mayor in any first class municipality, shall file a statement of financial interest with the office at which the candidate's nominating petitions are filed within fifteen days after filing such petitions or, if otherwise nominated, within fifteen days after such nomination is certified. A violation of this section is a petty offense. An intentional violation of this section is a Class 2 misdemeanor. **12-25-30**

- **Certification by county board of nominees at primary--Certificate of election of party officials.** The county canvassing board, as soon as the returns of any primary election are canvassed, as provided in chapter 12-20, shall issue and mail to each person whom the returns show nominated for any county office, a certificate of nomination. The county canvassing board shall certify the names of such nominees to be printed on the official ballot at the succeeding

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November election. The board shall issue and mail a certificate of election to each person whom the returns show elected as party precinct committeeman or committeewoman, delegate or alternate to the state convention. The certificate shall be duly executed by said county canvassing board under the seal of the county. The county canvassing board shall similarly certify the election of the delegates and alternates to the state convention to the state political parties. **12-8-1**

- ***Measures and questions to be sent to official newspapers.*** The county auditor shall, on or before the first day of October of each year in which there is a general election, send by electronic transmission or mail to each official newspaper of the county a copy of all measures and questions as certified pursuant to § 12-13-1. **12-13-2**

- ***Costs paid by county--Exception for local elections--Prohibition on private funding--Promulgation of rules.*** Except as otherwise provided by law, in any election in which all voters of a county participate, the costs relating to the election shall be paid by the county from funds appropriated therefor. In all other elections, costs shall be paid from funds appropriated by the governing body of municipalities, school districts, and other political subdivisions requiring an election for their own purposes. Costs relating to a combined municipal and school board election may be shared under the provisions of §§ 9-13-1.1 and 13-7-10.1. Neither the state nor any political subdivision may accept any funds, grants, or gifts for election costs from any source other than the governing body of a political subdivision, the state, or the federal government, except for gifts of a nominal and intrinsic value as defined by the State Board of Elections and given in compliance with the provisions of § 12-18-3. The State Board of Elections shall promulgate rules pursuant to chapter 1-26 to prescribe the definition of nominal and intrinsic value. **12-1-11**

- ***General duties relating to elections.*** The county auditor shall perform all the duties required of him by law relative to making out and delivering notices of special and general elections, to making abstracts of and canvassing the votes cast at any special or general election, to issuing certificates of election to members of the Legislature, county, and precinct officers, and to forwarding the abstracts of votes cast at general or special elections to the secretary of state. **7-10-5**

- ***Date of primary election.*** The primary election provided for in chapter 12-6 shall be held at the regular polling place in every voting precinct throughout the state on the first Tuesday after the first Monday in June of every even-numbered year. **12-2-1**

- ***Date of general election--Officers elected.*** On the first Tuesday after the first Monday in November of each even-numbered year an election shall be held in the several election precincts in the state, which shall be known as the general election and the several state, district, and county officers, members of the Legislature, senators and representatives in Congress, and judges of the Supreme and Circuit Courts shall be elected at the general election next preceding the expiration of the term of each of such officers, respectively, except such officers as are required by law to be elected at a special election; and in a year when a President and vice-president of the United States are to be chosen, a number of electors of President and vice-president of the United States, equal to the number of senators and representatives in Congress to which the state may be entitled or such other number as the Congress of the United States may require, shall be selected at such election. **12-2-2**

- ***Opening and closing times for polls--Voters in line at closing time.*** At each election to be held under this title, the polls shall be opened at the hour of seven a.m. and remain continuously open until seven p.m., standard time or daylight savings time, whichever is in

effect. However, no polling place may be closed at any election until all the voters who have presented themselves at the polling place inside or outside for the purpose of voting prior to the time of the closing of the polls have had time to cast their ballots. **12-2-3**

- **Local resolutions and ordinances for emergency interim succession.** With respect to local offices for which the legislative bodies of municipalities, townships, and counties may enact resolutions or ordinances relative to the manner in which vacancies will be filled or temporary appointments to office made, such legislative bodies are hereby authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. Such resolutions and ordinances shall not be inconsistent with the provisions of this chapter. **1-30-5**

- **Designation by local officers of emergency interim successors.** The provisions of this section and § 1-30-7 shall be applicable to officers of political subdivisions (including, but not limited to, municipalities, townships, counties, and school districts) not included in § 1-30-5. Such officers, subject to such regulations as the executive head of the political subdivision may issue, shall designate by title (if feasible) or by named person, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this chapter to ensure their current status. The officer will designate a sufficient number of persons so that there will be not less than three, nor more than seven, deputies or emergency interim successors or any combination thereof at any time. **1-30-6**

- **Laws applicable to election of county officers.** All election laws of this state relating to nomination and election of candidates for office on political ballots shall apply to the nomination and election of a sheriff, county auditor, register of deeds, treasurer, state's attorney, and coroner. **12-1-1.1**

- **Criteria for determining voting residence.** For the purposes of this title, the term, residence, means the place in which a person has fixed his or her habitation and to which the person, whenever absent, intends to return. A person who has left home and gone into another state or territory or county of this state for a temporary purpose only has not changed his or her residence. A person is considered to have gained a residence in any county or municipality of this state in which the person actually lives, if the person has no present intention of leaving. If a person moves to another state, or to any of the other territories, with the intention of making it his or her permanent home, the person thereby loses residence in this state. **12-1-4**

- **State board created--Members--Terms--Vacancies--Oath.** There is created a State Board of Elections to be composed of seven members, one of whom shall be the secretary of state who is chairman. Two of the members shall be county auditors appointed by the Speaker of the House of Representatives from a list of nominees supplied by the county auditors meeting at the South Dakota Association of County Officials. The auditors appointed by the Speaker of the House of Representatives shall be of different political party registration. One auditor appointed in 1991 shall be appointed for a two-year term and one shall be appointed for a four-year term. All appointments of auditors after 1991 shall be for four years. One member of the board shall be appointed by each of the following officers: the democratic leader of the Senate, the democratic leader of the House of Representatives, the republican leader of the Senate and the republican leader of the House of Representatives. Appointments to the board shall be as follows: the appointee of the democratic leader of the House of Representatives, 1980 and each fourth year thereafter; the appointee of the republican leader of the Senate, 1981 and each fourth year thereafter; the appointee of the republican leader of the House of Representatives, 1982 and each

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fourth year thereafter; the appointee of the democratic leader of the Senate, 1983 and each fourth year thereafter. After the appointments made in 1979, the terms of all appointed members of the board, except auditors, shall be for four years. All appointments to the board are to be made by January thirty-first of each year. Vacancies on the board shall be filled in the same manner as the original appointments were made. All appointed members of the board shall file with the secretary of state an oath in the form prescribed by § 3-1-5. **12-1-5**

- ***Assistance by Secretary of State's office.*** The Office of the Secretary of State is hereby charged with the duty and responsibility to serve as the secretariat of the State Election Board and shall assist the board as may be directed by the said board. **12-1-7**

- ***Costs paid by county--Exception for local elections--Prohibition on private funding—Promulgation of rules.*** Except as otherwise provided by law, in any election in which all voters of a county participate, the costs relating to the election shall be paid by the county from funds appropriated therefor. In all other elections, costs shall be paid from funds appropriated by the governing body of municipalities, school districts, and other political subdivisions requiring an election for their own purposes. Costs relating to a combined municipal and school board election may be shared under the provisions of §§ 9-13-1.1 and 13-7-10.1. Neither the state nor any political subdivision may accept any funds, grants, or gifts for election costs from any source other than the governing body of a political subdivision, the state, or the federal government, except for gifts of a nominal and intrinsic value as defined by the State Board of Elections and given in compliance with the provisions of § 12-18-3. The State Board of Elections shall promulgate rules pursuant to chapter 1-26 to prescribe the definition of nominal and intrinsic value. **12-1-11**

- ***Political party office prohibited in county courthouse.*** No political party may maintain an office in a county courthouse. **12-1-12**

- ***Initiated measures--Number of voters required.*** The right to propose ordinances and resolutions for the government of a county shall rest with five percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election. **7-18A-9**

- ***Judicial officers nominated and elected in nonpolitical elections.*** All candidates for the office of judge of the circuit court, and such other judicial officers as may be required by law to be elected, shall be nominated and voted for at the primary and general elections in the manner provided by this chapter and not otherwise. **12-9-1**

- ***Nomination of Independent Candidates*** Ch 12-7

- ***Notice of offices to be filled--Publication.*** The county auditor charged with the conduct of a primary election shall give notice of any office to be filled by nomination or by declaration and the deadline for filing in all official newspapers in the appropriate district, at least once each week for two consecutive weeks, between the fifteenth and thirtieth day of January in an even-numbered year. A local election official charged with the conduct of a local election shall give notice of any office to be filled by nomination or by declaration and the deadline for filing a nominating petition, in all official newspapers in the locality, at least once each week for two consecutive weeks. The last publication in the notice may not be less than ten nor more than fifteen days before the deadline for filing. The provisions of this section apply unless otherwise provided by law specifically governing the election. The person in charge of the election shall give further notice of each election stating the date and time of the election, and designating each polling place for the election, in all official newspapers at least once each week for two

consecutive weeks, the last publication to be not less than four nor more than ten days before the election. For any runoff election under § 12-6-51.1, one notice shall be published along with a copy of the ballot in each newspaper in the state that publishes on Saturday and Sunday. The secretary of state shall direct the newspapers to publish the ballot and notice on the eleventh or twelfth day after the primary election. The secretary of state shall pay all costs of publication.

12-12-1

- ***Submission of question of combined offices to voters--Procedure.*** The board of county commissioners shall upon receiving a petition signed by not less than fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, submit to the voters of the county the question whether two or more county offices shall be combined and that one person shall be elected to, and perform the duties of, the combined offices. The board of county commissioners shall follow the procedure set forth in chapter 7-18A in submitting such question to the electors. **7-7-1.5**

- ***Submitting to voters the question of combining with other counties a county office--Procedure.*** Notwithstanding the provisions of § 7-7-1.1, the board of county commissioners shall upon receiving a petition signed by not less than fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, submit to the voters of the county the question of whether to combine with one or more other counties a county office. That person shall be elected to and perform the duties of the combined offices. The board of county commissioners shall follow the procedure set forth in chapter 7-18A in submitting such question to the electors. **7-7-1.6**

- ***Election to adopt optional form.*** The board of county commissioners, by ordinance, or upon receiving a petition signed by not less than fifteen percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election, shall submit to the electors the question of whether to adopt an optional form of county government authorized by this chapter. The procedures set forth in chapter 7-18A shall govern such initiated measure and election. **7-8A-6**

- ***Statement filed by candidates for precinct committee--Time of filing--Contents.*** A candidate for party precinct committeeman or committeewoman shall file a statement in writing, with the county auditor of the county in which he or she is a candidate, not later than the last Tuesday in March before the primary election. The statement shall state that the candidate:

- (1) Is a resident of the precinct;
- (2) Is registered as a member of the political party named in the statement;
- (3) Is a candidate for precinct committeeman or committeewoman, as the case may be;
- (4) Is desirous of serving in that position; and
- (5) If elected, will qualify and serve in the office.

The statement, when properly filed, shall operate as a nominating petition for that office. (Text of section effective upon approval of amendment by SL 2015, ch 77 to be submitted to the voters at the November 8, 2016 election.) Statement of candidate for precinct committee. A candidate for party precinct committeeman or committeewoman shall submit a statement in writing, with the county auditor of the county in which he or she is a candidate, not later than the first Tuesday in March before the primary election. The statement shall state that the candidate:

- (1) Is a resident of the precinct;
- (2) Is registered as a member of the political party named in the statement;
- (3) Is a candidate for precinct committeeman or committeewoman, as the case may be;

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- (4) Is desirous of serving in that position; and
- (5) If elected, will qualify and serve in the office.

The statement, when properly submitted, shall operate as a nominating petition for that office.

12-5-4

- ***Furnishing to precincts of ballots for precinct committee--Form prescribed by state board.*** At the time of printing the official primary election ballots, the county auditor shall also have printed in like number, and for each political party, separate ballots upon which party voters may vote for precinct committeeman and for precinct committeewoman of their political party. These ballots shall be furnished to any election precinct having a contest for such position at the same time with the other election supplies. The form of these ballots shall be prescribed by the State Board of Elections. **12-5-8**

- ***Designation of precincts and polling places by county commissioners--Changes--Separate voter lists of special voting districts.*** The board of county commissioners shall by resolution provide for election precincts throughout its county and shall designate polling places within such precincts. The board shall establish new election precincts if required by the provisions of this chapter and may by resolution change the boundaries of election precincts already established. The county auditor shall be able to provide separate lists of voters living within the boundaries of each municipality, ward, school district, and any other special voting district. **12-14-1**

- ***Appointment by county auditor of precinct election officials--Names submitted by parties.*** The county auditor shall, not less than twenty days before any election, appoint a precinct superintendent and two precinct deputies who shall constitute the precinct election board and a precinct superintendent and two precinct deputies of the counting board if the board is appointed pursuant to § 12-15-14 or 12-15-14.1 for each of the voting precincts or vote centers of the county. Additional precinct deputies may be appointed in increments of two. The county auditor shall make the appointments from lists of names submitted by the county central committee of each party. If the county auditor fails to receive the list at least forty-five days prior to an election, the county auditor shall make the appointments. **12-15-1**

- ***Meetings of precinct officials for instruction on laws and duties--Compensation for attendance.*** Prior to each general or primary election, each county auditor, assisted by the state's attorney, shall call together the superintendents from each of the precincts in the county, and any precinct deputy as the county auditor may deem appropriate, at some convenient time and place and instruct them on the election laws and the duties of the precinct superintendent and precinct deputies. Any person who is called to the meeting and who attends the meeting shall be paid a fee fixed by the board of county commissioners of not less than five dollars for attending the meeting. **12-15-7**

- ***Fee paid precinct superintendent and precinct deputy--Mileage for returning pollbooks and ballot boxes.*** Each precinct superintendent and precinct deputy shall receive a fee to be established annually by resolution of the board of county commissioners at its first regular meeting each year. The person delivering the pollbooks and ballot boxes to the proper authority at the county seat shall receive the county rate for mileage as established pursuant to § 7-7-24, for miles necessarily traveled in going to and returning from making the delivery. **12-15-11**

- ***Petition required to place candidate's name on primary ballot--Place of filing.*** Except as provided by § 12-5-4 and as may be otherwise provided in chapter 12-9, no candidate for any office to be filled, or nomination to be made, at either or both the primary or general election,

other than a presidential election, may have that person's name printed upon the official primary election ballot of that person's party, unless a petition has been filed on that person's behalf after December thirty-first and by the last Tuesday of March at five p.m. local time before the date of the primary election. If the petition is mailed by registered mail by the last Tuesday of March at five p.m. local time before the primary election, the petition shall be considered timely submitted. A nominating petition for national convention delegates and alternates as provided in § 12-5-3.11 shall be filed in accordance with the provisions of this section. Nominating petitions for all party and public offices except legislative and judicial offices shall be filed in the office of the county auditor of the county in which the person is a candidate. Nominating petitions for legislative and judicial office whether elected in one or more counties, and all other party and public offices to be voted on in more than one county shall be filed in the Office of the Secretary of State. **12-6-4**

- ***Combined elections of governmental subdivisions.*** The members of the governing body of any governmental subdivision may choose to hold their election in conjunction with any other governmental subdivision's election if the statutory dates for the election coincide. The combined election is subject to approval by all of the governing bodies involved in the combined election. Expenses of a combined election shall be shared in a manner agreed upon by the governing bodies involved in the combined election. All other governmental statutory responsibilities associated with the election shall be shared as agreed upon by the governing bodies. **12-2-6**

- ***Composition and appointment of county recount board--Oath to act in good faith and with impartiality.*** The county recount board of each county which conducts a recount authorized by this chapter shall consist of a recount referee and two voters of the county to be appointed by the presiding judge of the circuit court for that county, and shall provide for representation of the two political parties with the largest party registration in that county. The recount referee shall be a duly qualified member of the bar of the State of South Dakota and a member of the political party which polled the largest number of votes for Governor in the county in the last gubernatorial election. Prior to serving, each member of the recount board shall take an oath that the member will act in good faith and with impartiality. The state board of elections shall prescribe the oath to be taken. **12-21-2**

- ***Complete recount on candidate's petition in close local election.*** A candidate for any office, position, or nomination which is voted upon only by the voters of one county or part thereof may ask for a recount of the official returns if such candidate is defeated, according to the official returns, by a margin not exceeding two percent of the total vote cast for all candidates for such office, position, or nomination. Any candidate for nonlegislative office shall file a verified petition with the county auditor within three days after the election returns have been canvassed by the official county canvass. Any candidate for legislative office shall file a verified petition with the county auditor within three days after the election returns have been canvassed by the official state canvass. The petition shall state that the candidate believes a recount will change the result of the election and that all of the votes cast for the office, position, or nomination should be recounted. A recount shall then be conducted. **12-21-10**

- ***Referendum petition--Number of signatures required--Emergency measures excepted.*** Any ordinance or resolution adopted by a board of county commissioners may be referred to a vote of the qualified voters of the county by the filing of a petition signed by five percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election, except such ordinances and resolutions as may be necessary for the

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immediate preservation of the public peace, health, or safety, or for the support of the county government and its existing public institutions. **7-18A-15**

- ***County auditor in charge of voter registration records.*** The county auditor has complete charge of maintaining and safeguarding the voter registration records in the county. The county auditor shall retain all voter registration records in the auditor's office in paper or electronic form. All such records shall be open to public inspection at all times during office hours, except pursuant to §§ 12-4-9 and 12-4-9.3. Voter registration shall be conducted by each county auditor and municipal finance officer. Voter registration shall be available at the secretary of state's office and at those locations which provide driver licenses; food stamps; temporary assistance for needy families; women, infants, and children nutrition program; medicaid; military recruitment; and assistance to the disabled as provided by the Department of Human Services. **12-4-2**

- ***Mail registration cards and instructions provided by auditor--Contact information provided by private entities.*** The county auditor shall provide mail registration cards along with instructions on how to properly register voters to private entities and individuals. Each private entity or individual shall provide information to the voter being registered on how the voter may contact such private entity or individual to determine the status of the voter's registration. **12-4-3**

- ***Entry of applicants in registration file--Deadline--Rules--Lists for secondary elections.*** The county auditor shall enter in the master registration file the names of all eligible persons who have had their completed applications for registration and mail registration cards received by any county auditor or any local, state, or federal agency responsible for conducting voter registration under this chapter not later than 5:00 p.m. fifteen days preceding the election. However, any completed mail registration card mailed to the appropriate county auditor and postmarked not less than thirty days preceding an election shall be added to the registration file. Voter registrations completed at any local, state, or federal agency during any given week commencing on Tuesday through the following Monday shall be sent to the appropriate county auditors no later than the following Wednesday. The State Board of Elections may promulgate rules, pursuant to chapter 1-26, for the alternative transmission of voter registration information by computer from the agency to the secretary of state. The name of any voter who has registered to vote by 5:00 p.m. fifteen days preceding the secondary election shall be added to the file used for the secondary election. **12-4-5**

- ***Notice of registration procedures--publication.*** The county auditor or the person responsible for the conduct of a local election shall give notice of the availability of registration officials and state when registration will be terminated and the effect of a failure to have registered. Such notice shall be published in official newspapers at least once each week for two consecutive weeks, the last publication to be not less than ten nor more than fifteen days before the deadline for registration. **12-4-5.2**

- ***Review of voter registration application by auditor--notice to applicant.*** When a voter registration application is received by the county auditor, the county auditor shall review the application for eligibility and completeness. If the applicant is not eligible to be registered or sufficient information to complete the registration card cannot be obtained from the applicant, the applicant shall be sent an acknowledgment notice indicating the reason the registration was not filed. In addition, the acknowledgment notice shall state that the voter needs to submit the corrected information to the county within thirty days or the voter registration form may not be processed. Any applicant whose registration is accepted shall be sent an acknowledgment notice. The acknowledgment notice shall be prescribed by the State Board of Elections and sent

by nonforwardable mail. The same confirmation mailing required by § 12-4-19 shall be sent immediately to any person whose registration acknowledgment notice is returned undeliverable.

12-4-5.3

- ***New registration on move between states or counties--Authorization to cancel previous registration.*** Any new registrant previously registered elsewhere shall be required to sign an authorization which shall be forwarded by the registration official to the auditor of the county of former registration, or other appropriate registration official, who shall remove the registrant's name from the registration file. **12-4-12**

- ***Persons declared mentally incompetent, deceased or serving sentence for felony conviction removed from registration records.*** The clerk of courts shall, within fifteen days after the close of each month, prepare and deliver to the auditor an abstract from the records of the names of persons declared mentally incompetent in the preceding month. The notice shall be sent to the county auditor of the county in which the person declared incompetent resides. The county auditor shall remove from the master registration list the names of persons identified in accordance with the information provided pursuant to this section and names of those sentenced to imprisonment in the federal penitentiary system and may remove names published in an obituary. Voter registration records maintained in or transmitted to the statewide voter registration file shall be matched with the death records maintained as vital statistics records by the Department of Health and the records of felony convictions maintained by the Unified Judicial System. Any voter identified as deceased or who is serving a sentence for a felony conviction shall be removed from the voter registration records. The State Board of Elections may promulgate rules, pursuant to chapter 1-26, determining how voter registration records shall be matched. **12-4-18**

- ***Confirmation mailing to voters who fail to reply to a confirmation mailing--Exception.*** Any voter in the active registration file who has failed to vote, has not updated the voter's registration information, and has not replied to a confirmation mailing at least once during the last preceding four consecutive years shall be sent a nonforwardable return-if-undeliverable address verification request. If the request is undeliverable then a confirmation mailing prescribed by the State Board of Elections shall be sent. If a county auditor has determined through a national change of address licensee of the United States Postal Service that the address of a voter who is to be sent an address verification request has changed, that mailing may be omitted. This process shall be performed by each county auditor between January first and November fifteenth of each odd-numbered year. **12-4-19**

- ***Placement in inactive registration file by auditor.*** If the card is not returned to the county auditor within the stated time limit or is undeliverable, the county auditor shall move the voter to an inactive registration file. **12-4-19.2**

- ***Cancellation of voter registration.*** If a voter placed in the inactive registration file does not vote by the second general election following the confirmation mailing, the registration shall be canceled. This determination shall be made between January first and November fifteenth of every odd-numbered year. **12-4-19.4**

- ***National Voter Registration Act of 1993.*** Sections 4 to 8, inclusive, of the National Voter Registration Act of 1993 apply to all elections in South Dakota which require voter registration. **12-4-32**

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- ***Delivery of supplies to counting board--Certificate of transmittal and receipt--Commencement of count--Continuation without adjournment--Comparison and correction of poll lists--Penalty.*** As soon as the polls are closed, the precinct superintendent and precinct deputies shall audit the ballot count as prescribed in §§ 12-20-2 and 12-20-3. The precinct superintendent and precinct deputies shall then immediately deliver the ballot boxes, registration book, pollbook, and other election supplies, including voided and unused ballots, to the counting board, if appointed, and sign a certificate of transmittal and receipt as prescribed by the State Board of Elections. The members of the precinct election board or the counting board, if appointed, shall then immediately proceed to count publicly, in the presence of all persons desiring to attend the count, the votes received at the polls, and continue without leaving the site of the count until the count is completed. A person charged with implementing this section may not delay the counting of ballots other than to authorize short recesses for the health and wellbeing of those employed to implement this section. In counting the votes, the members of the precinct election board or counting board shall use the tally sheets provided. **12-20-1**
- ***Tabulation and public release of unofficial returns--Entry into central election reporting system.*** Except as provided in § 12-20-17, the county auditor shall tabulate election returns as rapidly as received and make the result available for the information of the public, but such returns are not the official returns. The county auditor shall enter the information into the central election reporting system by using any computer located in a county office which is properly configured and linked to the central state computer immediately following the tabulation of each precinct. **12-20-13**
- ***Time for canvass of vote--Governing board as canvassing board--Representatives for absent board members.*** Within six calendar days after the close of any election, the officer in charge of the election, with the assistance of a majority of the governing board as the canvassing board, shall make the canvass of votes. Each member of the governing board may name and have on file with the officer in charge of the election a person to represent the member at the official canvass in the event of the member's absence for cause. **12-20-36**
- ***Special election to fill congressional vacancy--Time of election of representative.*** If a vacancy occurs in the office of a senator or representative in the United States Congress it shall be the duty of the Governor within ten days of the occurrence, to issue a proclamation setting the date of and calling for a special election for the purpose of filling such vacancy. If either a primary or general election is to be held within six months, an election to fill a vacancy in the office of representative in the United States Congress shall be held in conjunction with that election, otherwise the election shall be held not less than eighty nor more than ninety days after the vacancy occurs. **12-11-1**
- ***Call of special election when county commissioners fail to call.*** If the board of county commissioners for any cause fails or refuses to call special elections, the county auditor may provide for and call any special election under any of the statutes of the state in force within such county, upon the petition of a majority of all the registered voters of the county, based upon the total number of registered voters at the last preceding general election preceding such call. **7-10-6**
- ***Election at general election--Oath and bond--Licensed attorney required.*** A state's attorney shall be elected in each organized county of this state at each general election, who shall qualify by taking the oath of office and giving a bond as provided by law. No person shall be eligible to the Office of State's Attorney who is not duly licensed to practice as an attorney and

counselor at law by the Supreme Court of this state. **7-16-1**

- ***Suffrage And Right To Vote Ch 12-3***

- ***Counties covered by Voting Rights Act Amendments--Designation by federal agencies--Notice from secretary of state.*** Whenever the United States Department of Justice and the United States Census Bureau, acting pursuant to Public Law 94-73, designate any county in South Dakota to be covered under the provisions of the Voting Rights Act Amendments of 1975, the county so designated shall be governed by the provisions of §§ 12-3-6 to 12-3-13, inclusive. The secretary of state shall notify those affected counties that they are covered by the provisions of Public Law 94-73. **12-3-6**

- ***Linguistic assistance to Indians provided by counties.*** The county auditor of the counties affected by §§ 12-3-6 to 12-3-13, inclusive, shall provide election assistance to any Indian by providing a person proficient in both the local Sioux dialect and the English language in all precincts of the county for the purposes of registration, voting and instruction. **12-3-10**

- ***Order declaring territory a special zoning area with voters' assent--Notice of election.*** If a petition has been presented to the board as provided in § 11-2-41 and if the board is satisfied that the requirements of this chapter have been fully complied with, it shall make an order declaring that the territory shall, with the assent of the qualified voters thereof, be a special zoning area or number specified in the application. The board shall include in the order a notice for an election of the qualified voters resident in the proposed special zoning area, at a convenient place or places therein, on some day within one month from the notice, to determine whether the territory shall become a special zoning area. **11-2-42**

EMERGENCY 9-1-1 Ch 34-45

- ***Ordinances in effect on January 1, 2012 authorizing 911 emergency reporting system--Surcharge.*** 911 monthly surcharge extended to cellular users was enacted in 1995 through amendment of the definition of local exchange access lines to include cellular telephones. If the governing body of a public agency had adopted an ordinance authorizing a 911 emergency reporting system which was in effect on January 1, 2012, the ordinance remains in effect for establishing such 911 service area unless amended or repealed by the public agency. Any provision in the ordinance establishing a surcharge is no longer in effect after July 1, 2012. **34-45-2**

- ***Liability for collection and payment of service user line surcharges.*** Each telecommunications service provider, wireless telecommunications service provider, or Interconnected Voice over Internet Protocol service provider is liable to collect and remit the 911 emergency surcharges imposed by § 34-45-4. The service user is liable for paying the 911 emergency surcharge imposed by § 34-45-4. The service provider is not liable for any 911 emergency surcharge if the service provider is unable to collect the surcharge from the service user. **34-45-7**

- ***Administration costs.*** The service provider and prepaid wireless service seller may deduct and retain two percent of the collected amount or twenty-five dollars, whichever amount is greater, each month as the cost of administration for collecting the surcharge imposed by §§ 34-45-4 and 34-45-4.2. No service provider or prepaid wireless service seller may deduct or retain the amount authorized by this section if the service provider or prepaid wireless service seller does not, in accordance with §§ 34-45-8.2 and 34-45-8.3, timely file the return or report due by electronic means or does not timely remit the surcharge due by electronic means. **34-45-9**

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- ***911 coordination fund--Distributions to public safety answering points.*** There is hereby created within the state treasury the South Dakota 911 coordination fund. Any funds collected from prepaid wireless telecommunications service pursuant to § 34-45-4.2 shall be deposited in the South Dakota 911 coordination fund. Any money in the South Dakota 911 coordination fund is continuously appropriated for reimbursement of allowable nonrecurring and recurring costs of 911 service and operating expenses of the board. The board shall authorize disbursements from the fund pursuant to this chapter for the expenses of the board and for approved nonrecurring and recurring costs requested by the governing body of eligible 911 public safety answering points. The board may solicit proposals to coordinate and implement an upgrade to the 911 emergency service system of all public safety answering points. The funds may be disbursed for the purpose of planning, coordinating, purchasing, installing, maintaining, and operating, an upgrade to the 911 emergency services system. Any interest earned on money in the fund shall be credited to the fund emergency services system. **34-45-12**
- ***Immunity from liability.*** The 911 emergency reporting system provided by this chapter is within the governmental powers and authority of the governing body or public agency. In contracting for the 911 emergency reporting system or the provisioning of the 911 service, except for willful or wanton negligence or intentional acts, the board, the governing body, the public agency, the service provider, the prepaid wireless service provider, the prepaid wireless service seller, and the service supplier, their employees and agents, are immune from liability for a failure in the use or operation of the 911 system. The immunity provided by this section does not extend to the installation or maintenance of the 911 system. **34-45-17**
- ***Monthly uniform 911 emergency surcharge per service user line.*** A monthly uniform 911 emergency surcharge of one dollar and twenty-five cents shall be assessed per service user line. The proceeds of the 911 emergency surcharge shall be used to pay for allowable nonrecurring and recurring costs of the 911 system. No 911 emergency surcharge may be imposed upon more than one hundred service user lines or equivalent service, per customer account billed, per month. In the case of multi-station network systems, the service user lines shall be equal to the number of calls that can simultaneously be made from the system to the public switched telephone network. No prepaid wireless telecommunications service is subject to the 911 emergency surcharge imposed under this section. **34-45-4**

EMINENT DOMAIN

- ***Acquisition of ground for authorized county buildings--Board to supervise construction of all buildings.*** The board of county commissioners when authorized to erect any county building or joint county and municipal building shall have power to acquire ground for a site by purchase or condemnation. The board shall also have the entire supervision of the construction of all county buildings and monuments. **7-25-6**
- ***Condemnation of private property by county--Resolution of necessity.*** The board of county commissioners may condemn private property for public purposes in the manner and to the extent provided by law. If the board of county commissioners deems it necessary to condemn private property for the purpose of opening, constructing, changing, relocating, maintaining, repairing, or extending any highway or bridge within its county, or for the purpose of erecting, repairing, or extending any courthouse, jail, or other public building, and of acquiring other or additional ground therefor, or for the purpose of providing cut slopes, borrow pits, or channel changes, or to afford unobstructed vision on the highways in the county at any point of danger to public travel, for right-of-way and borrow pit, or for the purpose of making any other public improvement or to acquire private property for any public use authorized by law, the board shall by resolution declare an appropriation necessary to be made and state the purpose and extent of the appropriation. Nothing in this section may be construed as authorizing county commissioners to condemn property for county courthouse or jail site until a majority of the voters of a county have voted in favor of the erection of a courthouse or jail. **7-18-9**

EMPLOYEES: Refer to → PUBLIC OFFICERS AND EMPLOYEES

EMPLOYMENT AGENCIES

- ***Authority of county commissioners to regulate hawkers, peddlers, pawnbrokers, ticket scalpers or employment agencies.*** Each board of county commissioners may license, tax, regulate, or prohibit any hawkers, peddlers, pawnbrokers, ticket scalpers, or employment agencies not otherwise licensed, taxed, regulated, or prohibited pursuant to § 9-34-8. **7-18-29**

EQUALIZATION OF ASSESSMENTS: Refer to → PROPERTY TAXES

ESCAPE

- ***State reimbursement of county for expense of recapture of escapees from Department of Corrections' custody.*** Any county of this state, which is compelled to incur expense for the apprehension and detention of escapees from the custody of the Department of Corrections, including sheriff's mileage and expense, the costs and expenses of a trial, and damage or injury resulting to county property, shall be reimbursed by the state for the expense incurred and for any actual damage or injury suffered. **24-12A-1**
- ***Voucher and warrant for state reimbursement of county.*** In order to obtain reimbursement pursuant to § 24-12A-1, the chair of the board of county commissioners of the county shall present a claim on a voucher to be approved by the secretary of corrections for all of the actual expenses paid by the county. When the voucher is presented to the state auditor, the state auditor shall examine it and, if the claim is just and valid, the state auditor shall issue a warrant for payment to be made from funds appropriated for that purpose, and the state treasurer shall then pay the sum to the treasurer of the county. **24-12A-2**

FAIRS AND EXHIBITIONS See Chapter 7-27

FEDERAL RESOURCES MGMT. PLANS Ch 11-2

- ***Coordinating comprehensive plan with federal resource management plans.*** The board of county commissioners of a county which has officially adopted a comprehensive plan pursuant to § 11-2-20 may participate in efforts to coordinate the comprehensive plan with federal regional forest or other resource management plans as provided in the Federal Land Policy and Management Act of 1976 and federal regulations adopted pursuant to that act, including Title 36, Part 219 of the Code of Federal Regulations and Title 43, Subparts 1601 and 1610 of the Code of Federal Regulations. **11-2-20.1**

FIRE PROTECTION Ch 24-31, 7-18

- ***County funded fire protection services.*** The board of county commissioners of this state may organize and fund fire protection services for that part of the county that does not have fire protection service provided and funded by a township or rural fire protection district or by a volunteer fire department that is funded wholly or in part by donations from the people served by such department. The board of county commissioners may employ such personnel and purchase such equipment and supplies as necessary to provide such fire protection. The expenses incurred by the county pursuant to this section shall be within the maximum tax levy pursuant to § 10-12-21. **7-18-23**

- ***County tax levy for fire-fighting purposes--Petition to include municipality--Maximum levy--Accumulation from year to year.*** For the purpose of carrying out the provisions of §§ 34-31-1 and 34-31-2, the board of county commissioners may levy a tax not to exceed sixty cents per thousand dollars of taxable valuation in the county outside the limits of any municipality which provides fire protection service. However, the governing body of any municipality may by ordinance petition the board of county commissioners to include the taxable valuation within the limits of the municipality under the aforementioned levy for county fire protection service. The inclusion of the taxable valuation within the limits of the municipality under the levy for county fire protection service shall be in addition to the municipal levy for fire protection as provided in chapter 9-33. The proceeds of such tax shall be used only for the purposes of §§ 34-31-1 and 34-31-2 in the county in which the tax is levied and unexpended balances at the end of the fiscal year may not revert to the general fund but shall be permitted to accumulate and shall be available for carrying out the purposes of §§ 34-31-1 and 34-31-2. The levy authorized by this section is in addition to the levy authorized in § 10-12-21. **34-31-3**

FIREWORKS

- ***County regulation of fireworks--Use of South Dakota grassland fire danger index--Violation as misdemeanor.*** Any county may, by resolution, regulate or prohibit the use of fireworks outside the boundaries of any municipality in those areas where the fire danger, as determined by use of the South Dakota grassland fire danger index published by the National Weather Service, has reached the extreme category in that county during the period from June twentieth to July second, inclusive, and during the period from December twenty-eighth to January first, inclusive. During any such period, the county's action is suspended if the grassland fire danger index falls below the very high category and again becomes effective if the grassland fire danger index reaches the extreme category. Any violation of a resolution adopted pursuant to this section is a Class 2 misdemeanor. **34-37-19**

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FLOOD CONTROL Ch 7-18

- ***County powers in implementation of flood control programs.*** Every county shall have power
 - (1) To prevent or control flooding within its boundaries which endangers property;
 - (2) To enter into agreements with the United States, with the State of South Dakota, and with any authorized agency, subdivision, or unit of government, federal or state, to cooperate in preventing or controlling such flooding;
 - (3) To acquire by lease, purchase, gift, grant-in-aid, condemnation, or other lawful means and hold in its name for use and control as provided by law both real and personal property and easements and rights of way within the boundaries of the county for all purposes necessary to prevent or control such flooding; and
 - (4) For any and all of the foregoing purposes, to appropriate moneys therefor. **7-18-15**

FUNDS Ch 7-21, 7-24

- ***Accumulation of funds for capital outlay purposes.*** A board of county commissioners may, by resolution, authorize the accumulation of funds for a period longer than one year for a capital outlay purpose which is otherwise authorized by law. For the purpose of this section, the term, capital outlay purpose, includes any purpose which is extraordinary in nature, exceeds the funding ability of a single-budget year, and may result in the purchase of services, materials, supplies, or equipment. The resolution is enacted if approved by a vote of sixty percent or more of the governing body and shall clearly set forth the purposes for which the funds are to be accumulated and the maximum amount that may be accumulated. The funds to be accumulated shall be expended within eighty-four months from the date of the resolution. If the specific purpose for which the funds are accumulated is no longer necessary, the funds shall revert to the fund from which the funds were originally appropriated. The amount of accumulation for a specific purpose may not exceed five million dollars. The accumulation of funds pursuant to this chapter is in addition to any accumulation of funds authorized by § 7-21-18.1. **7-21-51**
- ***Tax levy to pay county bonds--Proceeds placed in debt service fund.*** When a county issues bonds, at or before the time of doing so, the governing body thereof shall levy a continuing annual tax sufficient to pay the interest and the principal thereof when due. All taxes so levied, when collected, shall be placed in a debt service fund. No part of the fund may be used for any other purpose than to pay the interest and principal of the bonds for which they were levied and collected. The levy authorized by this section is in addition to the levy authorized in § 10-12-21. **7-24-18**
- ***County legal expense relief fund established--Administration.*** There is established at the association of county commissioners a county legal expense relief fund administered by the county legal expense relief board created pursuant to § 7-16B-22. Expenditures from the fund shall be approved by the board. **7-16B-13**
- ***Promulgation of rules.*** The county legal expense relief board shall promulgate rules, pursuant to chapter 1-26, regarding the procedure and requirements for allowing additional counties to participate in the fund, the procedure and requirements for allowing participating counties to withdraw from the fund, and other policies to facilitate the administration, distributions, and assessments associated with the fund. **7-16B-15**
- ***Application for funds--Qualifying amount of expenses.*** Any participating county may apply to the board for funds from the county legal expense relief fund if that county has incurred

expenses related to any one criminal prosecution resulting in a court trial that are in excess of twenty-five thousand dollars. The application shall include such information as the board may prescribe. **7-16B-16**

- **Approval of application and disbursements--Amount.** The board established pursuant to § 7-16B-22 shall determine if the application is in order and the claim is justified and may approve disbursements to the county for ninety percent of any expenses related to any one criminal prosecution resulting in a court trial which qualifies pursuant to § 7-16B-16 and may continue to reimburse the county for ninety percent of the expenses for that trial. Reimbursement pursuant to this section shall be made only upon that portion of the legal expenses related to such criminal prosecution resulting in a court trial which is in excess of the qualifying amount set forth in § 7-16B-16. **7-16B-17**

- **County legal expense relief board established--Appointment and term of members--Payment of board's costs.** There is established a county legal expense relief board to consist of five county commissioners from participating counties appointed by the executive board of the association of county commissioners established pursuant to § 7-7-28. The executive board of the association may appoint an alternate board member to serve when the county legal expense relief board does not have a quorum at meeting. The alternate board member may be a county commissioner or a county manager appointed pursuant to § 7-8A-4. Board members shall serve staggered terms of four years or until their term as county commissioner has expired. Per diem costs for the board shall be established by the executive board of the association and shall be paid from funds collected by the association. **7-16B-22**

- **(County Poor Relief): Establishment--Administration--Expenditures.** There is established a catastrophic county poor relief fund administered by the South Dakota Association of County Commissioners and the board of catastrophic county poor relief. Expenditures from the fund, including the cost to administer the program, shall be approved by the board. **28-13A-1**

- **Discontinuance--Disposition of fund.** If at the end of any calendar year less than thirty-five counties elect to remain in the fund, a final assessment shall be made to re-establish the reserve, the fund shall be discontinued and the reserve shall revert to the state general fund. **28-13A-5**

- **Reimbursement from fund--Eligibility--Application.** Any participating county which has incurred hospital and other medical claims in excess of twenty thousand dollars for any individual eligible for county poor relief in a twelve-month period may apply to the board for funds from the catastrophic county poor relief fund. The application shall include such information as the board of catastrophic county poor relief may prescribe. **28-13A-6**

- **Computation of counties' shares.** Each participating county's share of the catastrophic county poor relief fund shall be computed utilizing the following factors:

- (1) The percent of the total population, minus individuals eligible for medicaid, of the participating counties in the state which reside in the county; and

- (2) The percent of the taxable value of the participating counties in the state associated with the county as determined by the Department of Revenue.

Each participating county's share of the catastrophic county poor relief assessment shall be calculated by multiplying the average of the two factors by the total assessment. **28-13A-9**

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- ***County levy for snow removal and special emergency reserve fund--Collection of levy.*** The board of county commissioners may establish a county snow removal and special emergency reserve fund by the levy of a tax up to but not exceeding one dollar and twenty cents per thousand dollars of taxable valuation within the county. The tax levy authorized by this section is in addition to all other county tax levies. All money collected and received under the provisions of this tax levy shall be remitted at the times and in the manner required by the laws of this state relating to counties. **34-5-2**
- ***Transfer of unused balance of special funds.*** Whenever there remains in the treasury of any county an unexpended balance of any special fund, and all claims against such fund have been fully paid, and the purpose for which it was created has been fully subserved, and there remains no further use for such balance for the purpose for which it was created, it shall be lawful for the board of county commissioners to transfer such balance to any other fund of the county or subdivision to which such balance belongs. **7-21-49**
- ***Weed and pest control fund.*** All funds collected pursuant to § 38-22-36 shall be deposited with the state treasurer in a special fund known as the "weed and pest control fund." **38-22-35**

GEOLOGIC STUDIES

- ***County appropriations for geologic or groundwater studies.*** A board of county commissioners may appropriate funds for the purpose of defraying the expense of having geologic or groundwater studies conducted within its county. **46-2-21**

HEALTH BOARD Ch 34-16

- **County Board of Health--composition.** Each county may establish a county board of health which shall be composed of the state's attorney of the county, who shall be president of the board; a physician, a physician assistant, or nurse practitioner who practices in the county, appointed by the Department of Health, who shall serve as superintendent of the board of health; and one other resident of the county. **34-16-22**
- **Meetings of county board.** The county board of health shall meet at the county seat at such times as the superintendent may designate. The president of the county board of health shall preside at the meetings. **34-16-23**
- **County responsibility for dead animals in unorganized territory.** In any county not wholly organized into civil townships the superintendent of the county board of health shall perform all of the duties of the township supervisor within such unorganized territory in respect to dead, putrid, or decaying bodies of any animals, and all expenses incurred in connection with the burning or burial of such animals or the giving of notice shall be paid by the county, and the owner of such animal and the person in charge thereof shall become liable therefor to the county. **34-16-14**
- **County disposal of dead animal on failure of township to act--liability for expense.** If the owner of a dead animal or the township supervisor fails to act as provided in § 34-16-17 within two days after the knowledge of the fact that the dead animal exists, the superintendent of the county board of health shall forthwith cause the body of the dead animal to be burned or buried, and the expense of the same shall be paid by the county. The amount of the expenses paid by the county constitutes a lien against the township in which the animal was found. The township shall pay the expenses and the township shall in turn recover the expenses from the owner or person in charge of the dead animal. **34-16-15**
- **Removal of putrid substances by county board.** The county board of health, within the territorial limits of its county not included in any first or second class municipality having its own board of health, may remove or cause to be removed any dead, decaying, or putrid body, or any decayed, putrid, or other substance that may endanger the health of persons or domestic animals. **34-16-25**

HEALTHCARE

- **Lease or conveyance of real property to provide health care.** By majority vote of its members, a board of county commissioners may lease or convey, upon such conditions as the board shall set forth, real property for the purpose of providing health care. **7-29-27**

HEALTH DEPARTMENTS Ch 34-3

- **County board where full-time department maintained--Appointment and terms of members.** There shall be created in each county maintaining a full-time county health department, a county board of health consisting of seven members to be appointed by the county commissioners as follows: One member shall be a member of such board of county commissioners, appointed for one year at the first official meeting of such board in each calendar year; one member shall be a practicing physician and shall hold office for a term of four years; five members are to be selected from the electors of the county to hold office for terms of five years each, except that the initial term shall be staggered in such manner that the term of one board member so chosen shall expire each year. Vacancies occurring on the county board of

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health shall be filled by appointment by the board of county commissioners for the unexpired term affected. **34-3-3**

- ***Powers of county board and superintendent vested in full-time department.*** The powers and duties of the board of health in a full-time county or district health department shall be the same as those specified for county boards of health and the superintendents thereof as provided for by chapter 34-16. **34-3-26**

- ***Adjacent counties and first and second class municipalities joining district health department.*** After the initial formation of a full-time district health department other adjacent counties and municipalities of the first class therein may, by resolution of their governing boards, become a part of such district by agreement with the district board of health. **34-3-11**

HIGHWAYS-COUNTY SYSTEM Ch 31-12

- ***Large projects--Advertising or county work required--Rejection of bids.*** Any road, tile, or culvert construction, repair work, or materials on the county highway system, for which the county highway superintendent's estimated cost exceeds the amount provided for in § 5-18A-14, shall be advertised and let at a public letting by the board of county commissioners or may be built by day labor. The board may reject all bids, in which case the board may readvertise or let privately by submitting the contract to the Department of Transportation for approval. **31-12-13**

- ***Small projects--Advertising, private contract, or county work permitted.*** Any road, tile, or culvert construction, repair work, or materials upon the county highway system, for which the county highway superintendent's estimated cost equals or is less than the amount provided for in § 5-18A-14, may be advertised and let at a public letting by the board of county commissioners, may be let privately at a cost not to exceed the county highway superintendent's estimate, or may be built by day labor. **31-12-12**

- ***Roads crossing county lines--Division of responsibility.*** Subject to approval of the department, boards of county commissioners of adjoining counties shall make proper connections between roads which cross county lines and which afford continuous routes of travel; adopt plans and specifications for highway construction, reconstruction, and repairs upon highways along and across county boundary lines, and make an equitable division between such counties of the cost and work of execution of such plans and specifications. In case of disagreement on the division, the Transportation Commission shall make the division. **31-17-2**

- ***Bridges Refer to → BRIDGES***

- ***Lease to contractors of county and township road equipment.*** The board of supervisors of any township or a board of county commissioners may lease to a contractor any scraper, grader, or other road tools or machinery belonging to the township or county. **31-11-28**

- ***Written contract--Performance bond.*** When any bid, as provided for in § 31-12-14 has been accepted, the board of county commissioners, county highway board, or board of township supervisors, as the case may be, shall enter into a contract with the person whose bid has been accepted. The contract shall be in writing specifying the work to be done or the materials to be furnished, or both, the time for completion, and the contract price or rate of payments. The board shall require the person receiving the contract to furnish a bond with approved sureties, and in an amount the board considers sufficient, conditioned upon the faithful performance of the contract according to the plans and specifications. **31-12-15**

- ***Contracts for county maintenance of streets and alleys in municipalities.*** Counties are authorized to contract with municipalities within their respective boundaries for the maintenance

of public streets and alleys or any portion thereof within said municipalities. Whenever it shall be made to appear to the board of county commissioners of any county by a resolution of any municipality within the county, duly adopted, copy of which resolution shall be filed in the office of the county auditor of the county of which such municipality is located that it will be to the best interests of such municipality and in the public interest that the municipality enter into an agreement in writing with the board of county commissioners of such county for the maintenance of any public street or alley or any portion thereof, the board of county commissioners may, in its discretion, enter into an agreement in writing with the governing body of such municipality to maintain any such street or alley, to be specifically designated, at and for a price to be paid to the county to be expressed in the agreement for such maintenance. If it shall appear to the board of county commissioners that it will be to the public interest to enter into such an agreement, it shall be lawful for it so to do, and such county, by and through its highway department and with the personnel and equipment thereof, perform, or cause to be performed, for such municipality such maintenance specified in said agreement and such maintenance to be done under the supervision and control of the county highway superintendent. The prices specified in said contract shall be paid to the said county by the municipality upon estimates certified to by the county highway superintendent in the same manner as other obligations of the municipality are paid. **31-12-41**

- ***Compensation paid out of state highway funds as part of cost of state trunk highway.***

Whenever any land, easement in land or material is necessary for right-of-way in order to make a safe or proper grade, for the relocating of utility facilities, or for widening, changing, relocating, constructing, reconstructing, maintaining, or repairing any portion of the state trunk highway, or if it is necessary for providing cut slopes, borrow pits, channel changes, or to afford unobstructed vision on any state trunk highway and at any point of danger to public travel, for right-of-way and borrow pit, the State of South Dakota, through and by its Department of Transportation, or any county authorized by agreement to acquire on behalf of the state, shall acquire and pay for the same out of state highway funds unless it is otherwise agreed. The cost of the land or material and expense of purchase or condemnation shall be paid as part of the cost of the state trunk highway unless otherwise agreed. **31-19-19**

- ***Annual inventory of county road building equipment and supplies--Destruction of records.***

The county highway superintendent shall prepare and file with the county auditor not later than the fifth of January of each year a true and correct inventory of all road building equipment, supplies, and materials on hand together with his estimate of its present value. However, the county auditor may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value. **31-11-7**

- ***Road and bridge fund used for equipment purchases--Maximum.*** Proper equipment for dragging, grading, and maintaining highways, such as graders, tractors, drags, maintainers, and planers, may be purchased from the county road and bridge fund, but not to exceed twenty-five percent of such funds collected for such year shall be used for the purchase of machinery. **31-12-22**

- ***County roads used by National Forest Service--Cooperative agreement for joint construction and use.***

The board of county commissioners may enter into cooperative agreements with the Forest Service of the United States Department of Agriculture for the joint construction, maintenance, and use of roads located within the boundaries of the county, where such roads are used by the Forest Service in the protection, administration, and utilization of the

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national forests and are also used by communities or persons within or adjacent to such national forests in the use and development of the resources thereof or where such roads otherwise serve the needs of the public. Costs incurred by the county pursuant to the provisions of this section shall be appropriated from the county general fund. **31-9-4**

- ***Supervision of maintenance work by superintendent--Payments from road and bridge fund.*** The county highway superintendent is hereby charged with the actual direction and supervision of all maintenance work in the county and shall keep a record of the costs of such work and certify to the correctness of all claims for such work, except for the purchase of machinery. Payment for maintenance work shall be made on warrants drawn upon the county road and bridge fund. **31-12-24**

- ***Regulation of junk yards adjacent to interstate and primary highways--Nonconforming junk yards as public nuisances.*** For the purpose of promoting the public safety, health, welfare, convenience, and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is hereby declared to be in the public interest to regulate and restrict the establishment, operation, and maintenance of junk yards in areas adjacent to the interstate and primary systems within this state. The Legislature hereby finds and declares that junk yards which do not conform to the requirements of this chapter are public nuisances. **31-30-1**

- ***Livestock guards across county or secondary highways authorized--Guards not considered highway obstruction.*** The construction and maintenance of livestock guards over or across county or secondary highways so constructed that automobiles and trucks may pass over the same and which will prevent the passage of livestock across such livestock guards is hereby authorized. The construction and maintenance of such livestock guards shall not be considered as creating a barrier or obstruction on such highways. **31-25-4**

- ***Temporary grading, repair work, or turnpiking operations.*** It shall not be necessary for plans and specifications to be prepared for the construction of temporary grading, repair work, or turnpiking operations with blade graders on the county highway system, and the same may be done by day labor or private contract made by the board of county commissioners. Such work shall be supervised by the county highway superintendent who shall certify to all claims for such work. **31-12-23**

- ***Markings on highways under commissioners' jurisdiction--Distances between third class municipalities--Cost of markings.*** Each board of county commissioners shall erect and maintain substantial guideposts at convenient intervals along all public highways under its jurisdiction not within the boundaries of any municipality, which guideposts shall show in plain letters thereon the directions and distances to the next municipality on either side of the point where such guidepost is located. The cost of erecting such guideposts shall be paid from the county general fund. **31-28-12**

- ***Powers and authority of commissioners if county road proposition passes.*** If the majority of the ballots so cast in an election pursuant to § 31-12-28 upon a canvass thereof shall be in favor of the proposition, the board of county commissioners shall thereafter construct, improve, and maintain all secondary roads within the several townships of the county, including existing secondary roads in the said townships, except such as are within the limits of municipalities to the exclusion of the said several townships, any statutes or laws to the contrary notwithstanding; and the said board of county commissioners shall have the same powers and authority with respect to the construction and maintenance of such secondary roads as are

conferred upon counties with respect to the construction, improvement, and maintenance of the county highway system. **31-12-31**

- **County funds available for secondary highways--Tax levy.** For the purposes described in § 31-12-36 there shall be available to the county the county road and bridge fund, the special highway fund as established by § 32-11-3, and revenue from other sources available to the county for construction, maintenance, and improvement of the secondary highways within such township, together with the proceeds of a tax which may annually be caused to be levied by the county commissioners in such township in such an amount to defray the cost of maintaining, constructing, and improving highways in the township not exceeding statutory limitations for highway purposes. **31-12-38**

- **Township funds available for secondary highways.** All highway funds and moneys belonging to, in the possession of any townships, or in the possession of the county and belonging to any such township, whose secondary highways are placed under the jurisdiction of the county commissioners as provided in §§ 31-12-34 to 31-12-36, inclusive, shall be expendable for the purpose of constructing, improving, and maintaining said secondary highways in said township, together with other funds which may accrue to said township for road purposes, all of which township funds shall be paid over to the county treasurer of such county by the treasurer of such township and covered into the special township motor vehicle fund. **31-12-39**

- **Secondary county road construction by county--Petition--Election.** When ten or more freehold voters from each county commissioner district in the county shall with the permission of the county commissioners join in a petition to the county commissioners of a county asking such board to construct and maintain all secondary roads in the several townships of the county, whether organized or unorganized townships, such petition shall be filed with the county auditor in said county and such board shall order an election for the purpose of determining by a vote of the voters of such county, or may submit at any general election, the question of such county maintaining, improving, and constructing the secondary roads in the several townships of said county, organized or unorganized. **31-12-28**

- **Powers and authority of commissioners if township highway proposition passes.** If the majority of the ballots so cast in an election pursuant to § 31-12-34 upon a canvass thereof shall be in favor of the proposition, the board of county commissioners shall thereafter construct, improve, and maintain all secondary highways within such township, any statutes or laws to the contrary notwithstanding. The said board of county commissioners shall have all of the powers and authority with respect to the construction and maintenance of such secondary highways within such township as are conferred upon counties with respect to the construction, improvement, and maintenance of the county highway system. **31-12-36**

- **County funds available for secondary roads--Tax levy.** For the purposes described in § 31-12-31 there shall be available to the county the county road and bridge fund, the special highway fund, as established by § 32-11-3, and revenue from other sources available to the county for county highway construction, maintenance, and improvement, together with the proceeds of a tax which may annually be caused to be levied in the township in such amount, not exceeding statutory limitations, for highway purposes. **31-12-32**

- **Tax levy for secondary roads in unorganized territory.** Each board of county commissioners may levy annually a tax upon the taxable property within the county not included in any municipality, organized civil township, improvement district organized pursuant to chapter 7-25A, or county road district organized pursuant to chapter 31-12A, to carry out the provisions

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of § 31-12-26. If a county levies a tax, the tax shall be certified, become payable and delinquent, and, if not paid, shall draw interest and penalty as other county taxes. The tax shall be used for such purposes. **31-12-27**

- ***County system at expense of entire county--Tax levy.*** The county highway system shall be permanently constructed and improved, and shall be maintained and repaired at the expense of the whole county, and the funds necessary therefor shall be levied and collected in the same manner as other county taxes, and it shall be the duty of the board of county commissioners to determine upon and make such levy in the manner now provided by law. **31-12-6**
- ***Vehicle license collections to be used outside municipalities.*** The portion of the county road and bridge fund derived from motor vehicle license collections credited pursuant to § 32-11-1 shall be used by the board of county commissioners for grading, constructing, planing, dragging, and maintaining county highways outside the limits of municipalities, and also for dragging, maintaining, and grading secondary roads. **31-12-42**
- ***Weed removal on state or county roads.*** The Department of Transportation and board of county commissioners of the various counties shall cut or remove, or cause to be cut or removed, grass, weeds, and brush growing within the right-of-way of all public highways within their respective jurisdiction and over which such department and boards exercise control as to repair and maintenance. A violation of this section is a petty offense. **31-31-1**
- ***Culverts: Width of culverts.*** All culverts constructed on the county highway system shall have a clear roadway of not less than twenty-four feet. **31-12-18**
- ***Approval of conservation district for repair of erosion damage--declaration--notice to landowner.*** No operations to repair erosion damage pursuant to § 31-12-44 may be undertaken by the county unless the conservation district in which the land is located has by resolution approved such action and until a notice that the erosion on the lands constitutes a nuisance has been given to the owner by the county. Notice shall be given by personal service upon the owner or by personal service upon the person in actual possession of the premises, with a copy of the declaration filed in the office of the county auditor. The declaration shall state that unless the owner corrects the damage within thirty days of the declaration, repairs shall be undertaken by the county, and the cost shall be assessed against the landowner's property if not paid before the first of November. The resolution of assessment shall be recorded in the minutes of the board of county commissioners, the original delivered by the clerk of the board to the county auditor, and a copy sent by registered mail to the landowner at the address shown on the records of the county auditor and to the operator. **31-12-45**
- ***Repairs for wind and water erosion assessed to private landowner.*** If any landowner fails to prevent damage to the county's highway system caused by severe and persistent wind or water erosion on the landowner's property, the county may repair the damage and assess the cost of the repairs against the landowner. If the landowner fails to pay the cost of the repairs before the first day of November in the year in which the repairs are performed, the cost shall be assessed against the landowner's property. **31-12-44**
- ***Annual hearing on maintenance continuation of private roads.*** The board of county commissioners shall annually hold a public hearing on the continuance of the maintenance of private roads by the county. Such hearing shall be published pursuant to § 31-11-42. **31-11-44**
- ***Township road system--Township board responsible for township roads.*** The board of township supervisors shall construct, repair, and maintain all of the township roads within the township except for section lines designated as no maintenance section lines pursuant to § 31-

13-1.4 and roads designated as no maintenance roads pursuant to § 31-13-1.6. The township road system consists of section line roads; judicially declared roads; roads impliedly accepted by the township through routine performance of certain maintenance activities, such as grading, graveling and snow removal, and accepting funds from the county pursuant to §§ 32-11-4.1 and 32-11-6 for a period of at least fifteen years; and any other roads designated by resolution of the board as being on the township road system. A road may only be vacated through the process specified in chapter 31-3. Before a road may be added to the township road system, the road shall meet the minimum requirements specified in §§ 31-18-2 and 31-13-4, unless the board, by resolution, waives this requirement. **31-13-1**

- **Payments on contracts.** All work done under any contract let by the supervisors of any township shall be paid by the township treasurer out of the highway fund in his hands belonging to the township in which such work is done, on an order of the board of supervisors of such township certifying the amount of work done and the amount to be paid for the same. **31-13-8**
- **Township highway tax.** There shall be voted and levied each year in each civil township, as taxes for other township purposes are voted and levied, a highway tax for the construction and repair of secondary highways within such township. **31-13-10**
- **County aid roads--Designation by county commissioners.** The board of county commissioners of each county is hereby empowered to designate in its discretion township roads or roads in unorganized townships within the county, as it may deem advisable and in the public interest as "county aid roads," and to expend any funds available from the county highway funds for laying out, constructing, graveling, and maintaining such township roads or roads in unorganized townships so designated as "county aid roads." **31-13-12**

HIGHWAY SUPERINTENDENTS Ch 31-11

- **Duties of county superintendent--Compliance with rules.** The county superintendent of highways shall perform all duties imposed upon him by the county commissioners and shall comply with all regulations and requirements of the county commissioners. **31-11-3**
- **Employment of county highway superintendent--Salary--Tenure.** The board of county commissioners at its discretion may employ a county highway superintendent, the salary and expenses to be fixed and allowed by the board of county commissioners, to be paid out of the motor vehicle fund of the county. No member of the board of county commissioners shall be appointed as county highway superintendent. The tenure of office of the county highway superintendent may be terminated at any time by resolution of the board of county commissioners upon thirty days' notice, but unless so terminated, the tenure of office shall be for two years. **31-11-1**
- **Employment of engineer by superintendent.** In cases where the county superintendent of highways is not an engineer he shall have power and authority with the approval of the county commissioners to employ an engineer whenever necessary to survey and to do other engineering work. **31-11-4**
- **Office of superintendent--Bond.** The county highway superintendent shall be provided with a suitable office by the county and shall file a bond to the county for the faithful performance of his duties in a sum not less than two thousand dollars nor more than five thousand dollars to be fixed by resolution by the board of county commissioners. **31-11-2**
- **Divisions of system into sections--Recording in county road book.** The county highway superintendent shall maintain in a county road book a complete record of the divisions of

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the county highway system into sections, each section being designated by some appropriate number, name, or letter, and the starting point and terminus of each section being clearly designated at length. **31-12-17**

- ***Supervision of maintenance work by superintendent--Payments from road and bridge fund.*** The county highway superintendent is hereby charged with the actual direction and supervision of all maintenance work in the county and shall keep a record of the costs of such work and certify to the correctness of all claims for such work, except for the purchase of machinery. Payment for maintenance work shall be made on warrants drawn upon the county road and bridge fund. **31-12-24**

- ***Survey and report by superintendent on condition of system and structures.*** The board of county commissioners may, if it deems it expedient, direct the county highway superintendent to make or cause to be made a survey and report upon all or parts of the county highway system for the purpose of ascertaining the condition of the parts thereof and of obtaining a record of existing structures and their condition. **31-12-8**

(County Road Districts Ch 31-12A)

- ***Laws applicable to proceedings for constructing roads, borrowing money, making special assessments, and issuing bonds.*** All proceedings for constructing and maintaining the roads and the borrowing of money, making of special assessments, and issuing of bonds shall be governed, to the extent applicable, by § 9-12-1 and chapters 9-26, 9-40, 9-43, 9-45, and 9-46. **31-12A-25**

- ***Incorporation of district by majority vote--Exclusion of agricultural property from district by notice to county auditor--Notation on survey and map.*** If a majority vote in favor of the incorporation, the territory is deemed a road district by the name and style specified in the order of incorporation issued by the board of county commissioners; otherwise, no further proceedings may be taken. However, any owner of land classified as agricultural property for the purposes of taxation may exclude that property from the district by notifying the county auditor in writing within sixty days after the incorporation of the district. The district shall note any alterations to the district resulting from exclusion upon the survey and map filed pursuant to this chapter. **31-12A-10**

- ***Sanitary district assuming road district powers.*** The board of trustees of any sanitary district incorporated under chapter 34A-5 may submit to the voters of the district at an annual election or a special election called and held in accordance with chapter 9-13 the question of whether the district shall be authorized to exercise the powers of road districts incorporated under this chapter, or the petitioners' application for incorporation filed in accordance with § 34A-5-6 may request such authority. Upon approval of the grant of such authority by a majority of the voters voting on the question, or upon entry of the order incorporating the district if the application has requested such authority, the board of trustees shall be authorized to exercise all powers which a road district organized under this chapter may exercise, including the powers granted by §§ 31-12A-21 to 31-12A-26, inclusive. **31-12A-20.1**

- ***Rules and regulations of trustees--Meetings--Quorum.*** The board of trustees shall adopt such rules and regulations for the conduct of the business of said board, and shall fix a stated time at which the regular meetings of said board shall be held. A majority of the board of trustees shall constitute a quorum but a smaller number may adjourn from day to day. A concurrence of

the majority shall be necessary to any action of such board. **31-12A-19**

- **Road work projects outside district's area.** Notwithstanding any other provision of this chapter, a road district may contract for and expend district funds for road work projects to be constructed outside of the geographical area of the road district, if the board of trustees approves that action by a two-thirds vote of the membership. The owners of any land, including any land subject to an easement, outside the district on which the road is to be constructed shall consent in writing to the project. If persons outside the district area would also benefit from such a project, the board may negotiate with and accept funds or any other assistance from any person on the basis and terms negotiated. The provisions of § 31-12A-25.1 do not apply to any road work performed pursuant to this section. **31-12A-26**

HISTORICAL MUSEUMS Ch 7-26

- **Construction, improvement, and operation of historical museums.** The board of county commissioners may provide for the acquisition of sites, purchase, erection, renovation, improvement, remodeling, alteration, operation, addition to, and repairing of county historical museums, or a historical museum owned by an incorporated nonprofit historical association or society, or a historical museum owned by the state located within such county. **7-26-5**

HISTORIC PRESERVATION ACTIVITIES Ch 1-19A

- **County and municipal historic preservation commissions--Purpose.** The governing body of any county or municipality may establish an historic preservation commission, to preserve, promote, and develop the historical resources of such county or municipality in accordance with the provisions of this chapter. **1-19B-2**
- **Annual special purpose tax levy--Approval by voters required.** To achieve the purposes of this chapter, the governing body of any county or municipality may levy annual taxes therefor as a special purpose, in addition to any allowed by the Constitution of the State of South Dakota. No tax shall be levied for the purposes of this chapter unless it shall have been first approved by the qualified voters of the county or municipality. **1-19B-5**
- **Title to property acquired--Supervision and control.** All lands, buildings, structures, sites, areas, or objects acquired by funds appropriated by a county or municipality shall be acquired in the name of the county or municipality unless otherwise provided by the governing board. So long as owned by the county or municipality, historic properties may be maintained by or under the supervision and control of the county or municipality. However, all lands, buildings, or structures acquired by an historic preservation commission from funds other than those appropriated by a county or municipality may be acquired and held in the name of the Historic Preservation Commission, the county or municipality, or both. **1-19B-14**
- **Notice to director of equalization of designation of historic property--Consideration in appraisal.** Upon the adoption of an ordinance designating an historic property pursuant to § 1-19B-20 or if the property is designated an historic property by the Department of Interior or the national park service, the local historic preservation commission shall give notice of such designation to the director of equalization of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the director of equalization in appraising it for tax purposes. **1-19B-25**

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- ***Governing body's power to protect historic properties.*** In addition to any power or authority of a county or municipality to regulate by planning or zoning laws and regulations or by local laws and regulations, the governing body of any county or municipality may provide by regulations, special conditions, or restrictions for the protection, enhancement, preservation, and use of historic properties. Such regulations, special conditions, and restrictions may include appropriate and reasonable control of the use or appearance of adjacent or associated private property within the public view, or both. **1-19B-53**
- ***Acquisition of historic sites and objects of historic interest--Preservation and display--Historic site markers.*** The board of county commissioners may, in its discretion, acquire without cost to the county historic sites located in said county and objects of historic interest including newspapers, magazines, and writings of historical interest of any sort or type whatsoever, and may provide in the county courthouse or elsewhere in the said county a room or rooms for the preservation, display, and maintenance of such objects and writings. They may cause to be erected within the said county suitable markers for any such historic site. **7-26-3**

HOME HEALTH SERVICES Ch 34-3A

- ***Health service contracts with public or private agencies--Expenditures from special revenue fund.*** The board of county commissioners or the governing bodies of a municipality may contract for health services with any public or private agency and expend funds for such purpose from the special revenue fund authorized by § 34-3A-1. **34-3A-5**

HOME RULE Ch 6-12

- Any county or city or combination thereof may adopt a home rule charter. Such chartered governmental unit may exercise any legislative power or perform any function not denied by its charter, the Constitution or general laws of South Dakota. (N IX, 2)
- ***Expenses and cost of charter preparation and election.*** Whether initiated by the voters or provided by the governing boards, counties, and first and second class municipalities are authorized to expend from their general funds expenses in connection with the preparation and sponsorship of a charter proposal and shall pay the cost of election conducted on the question of adoption or amendment of a charter. **6-12-1**
- ***Standards to be at least as stringent as state law.*** Neither charter nor ordinances adopted thereunder may set standards and requirements which are lower or less stringent than those imposed by state law, but they may set standards and requirements which are higher or more stringent than those imposed by state law, unless a state law provides otherwise. **6-12-5**
- ***Restrictions on power of home rule units.*** The power of a home rule unit does not include the power to:
 - (1) Enact private or civil law governing civil relationships except as incident to the exercise of an independent county or municipal power;
 - (2) Define and provide for the punishment of a crime, but this limitation shall not abridge the power of a home rule unit to provide punishment for the violation of ordinances or charter provisions by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months or by both such fine and imprisonment;
 - (3) Abridge laws relating to elementary and secondary education;
 - (4) Change assessment practices and procedures relating to ad valorem taxation of property;

- (5) Exempt itself from providing the necessary personnel and facilities to perform services required by general law to be performed by a like unit or units of local government;
- (6) Deny referendum on ordinances or bylaws provided by chapter 9-19;
- (7) Regulate rates or conditions of service of any public utility regulated by the South Dakota Public Utilities Commission. **6-12-6**

- ***Filing of adopted charter with secretary of state--Violation--Effect.*** The person charged with the conduct of an election concerning a question on adoption of a charter or amendment thereto shall, within thirty days after the canvass and return thereon, file with the secretary of state a certified copy of a charter or amendment adopted. Any person violating the provisions of this section is guilty of a Class 2 misdemeanor, but the failure of such person to so file shall not invalidate any election on such a question or a charter or amendment adopted pursuant thereto.

6-12-11

HOSPITALS Ch 34-8

- ***Credit enhancement obligations 6-8B-55 to 6-8B-69.*** Counties may authorize the issuance of a credit increment obligation to finance or refinance property, real or personal, and related costs for a qualified nonprofit corporation which owns or operates a hospital in South Dakota. **6-8B-55 to 6-8B-69**
- ***Rules governing admission to hospital--Reimbursement of county for cost of care--Costs paid from general fund.*** The board of county commissioners shall establish rules, not inconsistent with the laws of this state, covering the admission of persons to the county hospital provided for in § 34-8-1, and shall require every person admitted to such hospital to pay the county the cost of his care therein, all moneys so received to be credited to the county general fund. In the case of poor and indigent persons, the board shall pay the cost of the care of such persons out of the general fund. **34-8-12**
- ***County levy for operation and maintenance of hospital.*** The board of county commissioners of any county maintaining, operating, or leasing to any organization a county hospital shall appropriate from the general fund an amount sufficient to operate and maintain the county hospital. **34-8-19**
- ***County hospital as public hospital--Charges paid from county general fund--Collection of accounts.*** Every county hospital established and maintained under the provisions of this chapter shall be kept and maintained as a public, county hospital. It may charge a reasonable price for the use of such hospital and its facilities to such persons being residents of the county as may be determined by the board of county commissioners to be county charges without means and in that event the cost of such services at such hospital shall be paid to the hospital fund from the general fund on behalf of such county charges. It may also collect accounts which are due and it may employ collection agencies or attorneys on a contingent fee basis or may assign the claim for collection. **34-8-11**
- ***Lien of county for hospital costs paid from poor fund.*** Whenever any county within this state shall become obligated to and does pay the hospital bills and charges for any of the persons defined in § 34-8-11 as "county charges without means," the county in such case shall have a lien upon all of the property, real and personal except property absolutely exempt from seizure and sale, of such persons defined herein, for all sums expended therefor by any county; such lien shall be established, recorded and foreclosed as provided by chapter 28-14, and all the provisions of said chapter are hereby made applicable thereto. **34-8-14**

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- ***Management of hospital by county commissioners--Rules and regulations.*** On the completion of a county hospital the operation and management thereof shall be the responsibility of the board of county commissioners of the county owning such hospital and the board shall establish rules and regulations for its operations. **34-8-6**
- ***Establishment and maintenance of county hospital authorized--Types of institutions included.*** The board of county commissioners in any county in this state may establish and maintain or lease to be maintained a county hospital for the care and treatment of county charges, and such other persons as may apply for admission to such hospital. In this chapter, the term "hospital" may be construed to mean a hospital, a medical facility and its equipment, a nursing facility or a home for the aged, or any building used or to be used for any two or more of these purposes. **34-8-1**

HOUSING AND REDEVELOPMENT PROJECTS Ch 11-7

- **Definitions, 11-7-1**
Blighted area, 11-7-3
Housing project, 11-7-4
Municipal projects, 11-7A-1
Redevelopment project, 11-7-5, 11-7-6
Slum area, 11-7-2
Tax incremental districts Ch 11-9
Tax increment, 11-9-26
Tax incremental base, 11-9-19
- ***Housing and redevelopment commissions created--Findings and declaration of need required before exercise of powers.*** There is hereby created in each county and municipality in this state a public body corporate and politic, to be known as the housing and redevelopment commission, in and for that county and municipality. However, no commission may transact any business or exercise any powers until the governing body of the municipality or county, by resolution, finds that in the municipality or county:
 - (1) Slum or blighted areas exist;
 - (2) Insanitary or unsafe inhabited dwelling accommodations exist; or
 - (3) There is a shortage of decent, safe, and sanitary dwelling accommodations available to persons of low or moderate income, including veterans and servicemen, and their families at rentals or prices they can afford; and declares that there is need for a housing and redevelopment commission to function in that municipality or county. **11-7-7**
- ***Power to acquire property--Eminent domain power.*** A commission shall have power within its area of operation to acquire real or personal property or any interest therein by gift, grant, purchase, exchange, lease, transfer, bequest, devise, or otherwise, and by the exercise of the power of eminent domain, in the manner provided by chapter 21-35, to acquire real property which it may deem necessary for its purposes under this chapter, after the adoption by it of a resolution declaring that the acquisition of the real property is necessary for such purposes. **11-7-22**
- ***Acceptance of grants and loans--Power to make loans.*** A commission shall have further power to borrow and loan money or other property and accept contributions, grants, gifts, services, or other assistance from the federal government, state public bodies, or from any other

public or private sources. A commission shall not have the power to loan money when available from private sources. **11-7-28**

- **Removal of commissioner from office--Notice and hearing--Suspension pending final action--Record of proceedings.** For inefficiency or neglect of duty, or misconduct in office, a commissioner may be removed by the governing body of the municipality or the county as applicable, but a commissioner shall be removed only after a hearing and after he shall have been given a copy of the charges at least ten days prior to the hearing and had an opportunity to be heard in person or by counsel. When charges in writing have been preferred against a commissioner, pending final action thereon, the governing body may temporarily suspend him, but, if it is found that those charges have not been substantiated, he shall immediately be reinstated in his office. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk. **11-7-14**

- **Notice and hearing by governing body on redevelopment plan--Decision by governing body.** The governing body of the municipality or county as applicable shall hold a public hearing on any redevelopment plan recommended by the commission, after one publication of notice in a legal newspaper published in the county in which the commission is located. The publication shall describe the time, date, place and purpose of the hearing. Within thirty days after the receipt of a proposed redevelopment plan, the governing body shall give written notice to the commission of its decision with respect to the redevelopment plan. **11-7-77**

- **Commission as body corporate--General powers--Taxing and special assessment power denied.** A commission shall be a public body corporate and politic, exercising public and essential governmental functions, and shall have all the powers necessary or convenient to carry out the purpose of this chapter including the powers granted by §§ 11-7-18 to 11-7-23, inclusive, in addition to others granted in this chapter, but not the power to levy or collect taxes or special assessments. **11-7-17**

- **Payments in lieu of taxes on property.** A commission shall further have power to make such payments in lieu of taxes to the first or second class municipality or the county, the state or any political subdivision thereof, as it finds consistent with this chapter. **11-7-26**

Housing Development Authority Ch 11-11

- **Appointment of commissioners--Political affiliations.** The powers of the authority shall be vested in seven commissioners, who shall be residents of the state, to be appointed by the Governor. Not more than four of the commissioners may be of the same political party. **11-11-12**

- **Terms of office of commissioners--Vacancy--Restrictions on reappointment.** The commissioners shall serve five-year terms, with no more than two commissioners appointed to any one term, with each term beginning July first and ending on June thirtieth. Each commissioner shall be appointed for a term ending five years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. No commissioner appointed pursuant to this chapter by the Governor shall serve more than two consecutive full terms. Each commissioner shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. **11-11-15**

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HUMAN RIGHTS Ch 20-12

- ***Authority of municipality and county to investigate discriminatory practices.*** Any municipality or county may investigate any discriminatory practices based on sex, race, color, creed, religion, ancestry, disability, familial status, or national origin, with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations, or public services. **20-12-4**
- ***Commissions on human relations authorized--Purposes and powers.*** To effectuate the foregoing policy municipalities and counties may establish a commission on human relations which may act to disseminate information, to engage in and co-operate with programs of research and education, to co-operate with persons or groups interested in similar objectives, to conduct public meetings and hearings, to mediate and conciliate in instances of alleged discrimination, and to initiate and hear complaints alleging discrimination with such investigation and inquiry as may reasonably appear necessary. **20-12-5**
- ***Transfer of complaints to state commission.*** Upon the filing of any complaint under the provisions of § 20-12-5, the parties to the complaint shall be notified that any party thereto may, within fifteen days of the date of receipt of the notice of the proceeding, demand as a matter of right that the matter be transferred to the State Commission of Human Rights which shall process the complaint under the provisions of chapter 20-13. Immediately upon receipt of notice of a party's demand to transfer the complaint under this provision, the municipal or county commission on human relations shall forward the complaint to the State Division of Human Rights and shall thereafter have no further jurisdiction with regard to the complaint. **20-12-9**

HUMAN RIGHTS-STATE COMMISSION Ch 20-13

- ***State Commission of Human Rights--Appointment of members--Terms--Vacancies--Removal.*** The State Commission of Human Rights shall consist of five members appointed by the Governor, no more than three of whom may be from the same political party and two of whom shall, in the opinion of the Governor, be experienced in or have a favorable reputation for skill, knowledge, and experience in the management or operations of a business enterprise. Appointments shall take into consideration geographical area insofar as may be practicable. Members appointed to the commission shall serve for a term of four years expiring June thirtieth of an odd-numbered year. Vacancies on the commission shall be filled by the Governor by appointment for the unexpired part of the term of the vacancy. Any commissioner may be removed from office by the Governor for cause. **20-13-2**
- ***Direction and supervision of commission by Department of Labor and Regulation--Independent functions retained by commission.*** The Commission of Human Rights shall be administered under the direction and supervision of the Department of Labor and Regulation and the director thereof, but shall retain the quasi-judicial, quasi-legislative, advisory, other nonadministrative and special budgetary functions (as defined in § 1-32-1) otherwise vested in it and shall exercise those functions independently of the director of human rights. **20-13-2.1**

INCOME TAX-BANKS AND FINANCIAL CORPORATIONS Ch 10-43

- ***Income tax in lieu of other taxes.*** The tax referred to in this chapter is in lieu of all other taxes, state, county, and local, except taxes upon the institutions' real property, taxes upon the institutions' leased sites, taxes upon tangible personal property and products transferred electronically not normally used in extension of credit or acceptance of deposits and the retail sales tax or the use tax on tangible personal property and any product transferred electronically. However, tangible personal property and any product transferred electronically acquired by the financial institution through a foreclosure proceeding are exempt from such other taxes. **10-43-5**
- ***Percentage of proceeds retained by state--Payment of remainder to counties--Branch office remittances kept separate.*** Upon the receipt of the funds referred to in this chapter, the secretary of revenue shall deposit ninety-five percent of the taxes paid by credit card banks and twenty-six and two-thirds percent of all other revenue to the general fund. The secretary of revenue shall remit the remainder, on or before February first of each year, to the county treasurer of the county wherein is situated the bank or financial institution remitting the tax. However, the remittance of tax from all branch banks, branch offices, or branches of other financial institutions subject to this tax shall be separated from the remittance of the parent bank or financial institution and shall be remitted to the county treasurer of the county in which the branch bank, branch office, or financial institution is located. **10-43-76**
- ***Apportionment of funds among taxing subdivisions.*** The county treasurer upon receipt of the funds, remitted to the county pursuant to § 10-43-76, shall apportion and distribute the funds between the taxing subdivisions in the same proportion as the real property taxes levied in each taxing subdivision in the previous year as determined and certified by the secretary of revenue. **10-43-77**

INDIAN AFFAIRS Ch 1-1

- ***Linguistic assistance to Indians provided by counties.*** The county auditor of the counties affected by §§ 12-3-6 to 12-3-13, inclusive, shall provide election assistance to any Indian by providing a person proficient in both the local Sioux dialect and the English language in all precincts of the county for the purposes of registration, voting and instruction. **12-3-10**
- ***Tribal referendum on jurisdiction of Indian lands--Notice of result to county commissioners--Failure to take referendum.*** No assumption of civil or criminal jurisdiction shall become effective under the provisions of §§ 1-1-12 to 1-1-16, inclusive, until the tribal council of a tribe over which state jurisdiction is to be taken, shall have considered a referendum in which all persons eligible to vote at elections held for the purposes of electing officers of such tribe, shall have been given an opportunity to approve or disapprove such assumption of jurisdiction. A majority of the persons so voting in such a referendum must cast affirmative votes in favor thereof before such approval shall be given, and the tribal council shall then notify the board of county commissioners of the counties concerned as to the results of such referendum. Provided, however, that if the tribe has failed to take action as above prescribed, within one year from and after October first, 1957, it shall be deemed that the referendum has been dispensed with and that the tribe has consented to and does approve the assumption of jurisdiction herein provided, and that the county or counties concerned may then proceed as set forth in § 1-1-14. **1-1-13**

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- ***Resolution of county commissioners assuming jurisdiction--Contract for federal reimbursement of costs.*** Jurisdiction shall not be deemed assumed or accepted by this state in any county of South Dakota unless and until a resolution assuming and accepting the same is adopted by the board of county commissioners of any county containing Indian country. Prior to the adoption of such a resolution, the county commissioners shall negotiate and contract with the federal Bureau of Indian Affairs of the United States Department of Interior for reimbursement of any authorized and appropriated federal funds for the added costs to any county in connection with the assumption of said jurisdiction. The rates or terms of any such contract shall so far as possible be on the basis of and take into consideration the untaxed Indian lands and the proportion such land bears to the total land area of said respective counties and the proportion the law enforcement costs bear to the total government costs of said respective counties. **1-1-14**
- ***Agreement to collect taxes for tribes--Fee.*** The department may enter into tax collection agreements with any Indian tribe under the provisions of this chapter and chapter 1-24. These agreements may provide for the collection of any of the following state taxes and any tribal taxes imposed by a tribe that are identical to the following state taxes:
 - (1) The retail sales and service tax imposed by chapter 10-45;
 - (2) The use tax imposed by chapter 10-46;
 - (3) The contractors' excise tax imposed by chapter 10-46A;
 - (4) The alternate contractors' excise tax imposed by chapter 10-46B;
 - (5) The cigarette tax imposed by chapter 10-50;
 - (6) The motor vehicle excise tax imposed by chapter 32-5B;
 - (7) The fuel excise tax imposed by chapter 10-47B;
 - (8) The wholesale tax on tobacco products imposed by chapter 10-50;
 - (9) The amusement device tax imposed by chapter 10-58;
 - (10) The gross receipts tax on visitor related businesses imposed by chapter 10-45D;
 - (11) The excise tax on farm machinery, attachment units, and irrigation equipment imposed by chapter 10-46E. The agreement may provide for the retention by the department of an agreed-upon percentage of the gross revenue as an administrative fee. **10-12A-4**

INDIGENT PERSONS Ch 28

- ***Appeal to circuit court from county commissioners--Direction for assistance.*** If any person shall suppose that he is entitled to the benefit of the laws for the relief of the poor, and the commissioners of the county in which he applies for assistance shall refuse to give such person the benefit thereof, upon application of such person a judge of the circuit court having jurisdiction over such county may, if he shall think proper, direct such commissioners to provide assistance pursuant to this chapter to such person. **28-13-40**
- ***Amount of reimbursement.*** The catastrophic county poor relief board shall determine if the application is in order and the claim is justified and may approve disbursements to the county for ninety percent of any hospital and other medical claim payments the county has made for the individual in excess of twenty thousand dollars in the twelve-month period and may continue to reimburse the county for ninety percent of hospital and other medical claim payments for the individual for the remainder of that period. **28-13A-7**
- ***Computation of counties' shares.*** Each participating county's share of the catastrophic county poor relief fund shall be computed utilizing the following factors:
 - (1) The percent of the total population, minus individuals eligible for medicaid, of the

participating counties in the state which reside in the county; and

(2) The percent of the taxable value of the participating counties in the state associated with the county as determined by the Department of Revenue.

Each participating county's share of the catastrophic county poor relief assessment shall be calculated by multiplying the average of the two factors by the total assessment. **28-13A-9**

- ***Funeral expense borne by county of residence or where death occurred.*** If any person who is destitute and has no estate dies within the state, and who has no one legally bound for funeral expenses, and where there is no other source to pay the cost of burial or cremation expense, the funeral expenses shall be borne by the county in which the deceased was a resident at time of death. If no residence can be determined for the deceased person, the funeral expenses shall be borne by the county in which death occurred. **28-17-2**
- ***Contract for burial space and cemetery services.*** In addition to the burial and cremation expenses provided in § 28-17-4, the county commissioners may contract with cemeteries within the state for burial space in a cemetery and the opening and closing of the grave. **28-17-5**
- ***Payment of expenses by county--Reimbursement by county of residency--Conduct of funeral and payment of expenses for deceased veterans.*** The necessary and reasonable expenses of burial or cremation under this chapter shall be paid by the county treasurer, upon the order of the commissioners. If the decedent had an established residency according to § 28-13-3 in a county in this state different from that in which the decedent died, the county paying the funeral expenses shall be reimbursed by the county in which the decedent had an established residency. If the decedent was an honorably discharged United States soldier, sailor, marine, or aviator, the funeral shall be conducted and expenses paid as provided in chapter 33A-5. **28-17-6**
- ***County duty to relieve poor persons--Taxation--Determination of eligibility.*** Every county shall relieve and support all poor and indigent persons who have established residency therein, as that term is defined in §§ 28-13-2 to 28-13-16.2, inclusive, and who have made application to the county, whenever they shall stand in need. Each board of county commissioners may raise money by taxation for the support and employment of the poor. If a person is receiving benefits from the Department of Social Services, the board of county commissioners may determine if he is eligible for county relief. **28-13-1**
- ***Intentional fraud or deceit to receive assistance.*** Any applicant for assistance who knowingly makes any false statement, with intent to defraud, as to his financial status or other required information, or in any way intentionally deceives any county commissioner, or any welfare worker employed pursuant to § 28-13-22, in order to receive assistance, shall be guilty of a Class 1 misdemeanor. **28-13-16.2**
- ***Refusal to work without just cause--Eligibility for assistance terminated.*** Any person who without just cause refuses to report for work to which he has been assigned by the board of county commissioners, or by a welfare worker employed pursuant to § 28-13-22, shall thereupon become ineligible for further assistance under this chapter until such work is commenced. **28-13-20.2**
- ***County liability for emergency and nonemergency hospitalization of indigent persons--Remedies for recovery of expense by county.*** Subject to the provisions of this chapter and except as expressly provided, if a hospital furnishes emergency hospital services to a medically indigent person, the county where the medically indigent person has established residency is liable to the hospital for the reimbursement of the hospitalization. In the case of nonemergency

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care, the county of residence is liable only to the extent that the board of county commissioners, in good faith, approves an application for assistance. If a county provides payment for nonemergency services, the services shall be approved by the county before the services are provided. To the extent that the county provides payment to a hospital, the county has the same remedies for the recovery of the expense as are provided by chapter 28-14 for the recovery of money expended for the relief and support of poor and indigent persons. **28-13-33**

- ***Contractual arrangements between county and hospital not impaired.*** Nothing in this chapter precludes a hospital and a county from entering into a reasonable and suitable arrangement, contract, or agreement for hospitalization of medically indigent persons at other rates than provided under this chapter, or abrogates or impairs any rights or remedies of either the county or the hospital under any such arrangement, contract, or agreement. **28-13-36**

- ***County claim for reimbursement from person relieved--Enforcement against property.*** When any county shall furnish relief to any person under the provisions of chapter 28-13, such county shall have a claim against the person so relieved for the value of such relief, which may be enforced against any property, not exempt from execution, which such person may have or later acquire. **28-14-1**

- ***Certified copies of record filed in other counties--Lien on property therein.*** Certified copies of the record as to such aid to any poor person may be filed with the register of deeds of any county in the state, and shall thereupon be recorded and indexed as are similar records of such county and shall thereupon constitute notice of a lien upon any property of said poor or deceased person in said county. **28-14-8**

- ***Satisfaction of lien on full payment--Statement of satisfaction recorded with register of deeds--Marginal notation by register.*** When full amount for which a lien against the property of any person shall have been established by virtue of the provisions of this chapter, as certified by the county auditor, shall be paid to the county treasurer of the county which shall have made such payment or payments, such lien shall be satisfied. Upon the receipt for such payment being presented to and filed with such county auditor that officer shall issue a statement, signed, and sealed, to the effect that such lien is satisfied. The statement so issued may be filed for record and recorded in the office of the register of deeds of each county in which a record of such lien has been made, without charge or fee therefor. The register of deeds shall also note the fact of such satisfaction of lien upon the margin of any record of such lien in that office. **28-14-14**

INDUSTRIAL DEVELOPMENT OF LAND Ch 7-29

- ***Sale or lease of real property for industrial development or public purposes--Terms of lease.*** Every county shall have power to lease or sell on a negotiated basis and to convey any of its real property to a municipality or the state or another county, or to a nonprofit local industrial development corporation as defined by § 7-29-24 and located therein, to be used by such grantee for an authorized public purpose or industrial development purpose as enumerated in § 9-54-1. Such lease or sale shall be authorized on the terms and in the manner provided by resolution of the county commissioners. **7-29-23**

- ***Donation of land to state or first or second class municipality for parks or recreation area.*** By unanimous vote of its members, a board of county commissioners may give, upon such terms and conditions as may be agreed to, any of its lands suitable for parks or recreation areas to the State of South Dakota or to first and second class municipalities in the manner provided by chapter 9-38 or chapter 41-2 for use as state parks, recreation areas, or city parks. **7-29-25**

- ***Lease or conveyance of real property to provide health care.*** By majority vote of its members, a board of county commissioners may lease or convey, upon such conditions as the board shall set forth, real property for the purpose of providing health care. **7-29-27**

INITIATIVE Ch 7-18A

- ***Initiated measures--Number of voters required.*** The right to propose ordinances and resolutions for the government of a county shall rest with five percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election. **7-18A-9**
- ***Nullification by initiated ordinance of emergency provisions prohibited--Time for initiated measure to nullify bond purposes.*** An initiated ordinance may not be proposed which would nullify such ordinances or resolutions as may be necessary for the immediate preservation of the public peace, health, or safety or for the support of any government or existing public institutions, or which would nullify the purpose for which bonds have been sold by a county pursuant to statutory authority, unless proposed within a period of thirty days after the first publication of the advertisement of the notice of sale of such bonds. **7-18A-10**
- ***Majority vote required for approval of initiated measure--Effective date.*** No initiated ordinance or resolution is effective unless approved by a majority of the votes cast for and against the ordinance or resolution. If approved, the ordinance or resolution takes effect upon the completion of the canvass of the election returns. **7-18A-14**
- ***Waiting period before second vote on initiated or referred question.*** No question contained in a referred or initiated ordinance or resolution may be voted upon again within one year from the date of the election thereon. **7-18A-24**

INSURANCE

- ***Insurance on buildings--Application of proceeds--Filing policies.*** The board of county commissioners may insure any or all of the public buildings and property belonging to the county. In case of the destruction or damage of the buildings or property so insured, such board shall demand and receive any money due on account of such insurance and cause same to be paid into the county treasury. All money received may be applied to the fund for rebuilding or restoring such buildings or property. Such insurance policies shall be filed in the office of the county auditor. **7-25-16**
- ***Liability insurance and agreements obtained for county--Protection for officers and employees.*** Any board of county commissioners may obtain and pay for all forms of liability insurance, or in lieu thereof, make other arrangements, including entering into agreements with others, which agreements may create separate legal or administrative entities pursuant to chapter 1-24, to protect and assist the county in meeting obligations arising from such acts or omissions for which the county may be legally liable. The liability insurance coverage or other arrangement obtained shall protect the county officers and employees in the performance of official duties and against acts committed by them that could be reasonably considered to be within the scope of their official duties. **7-18-8**
- ***Hospital and medical insurance contracts for county officers and employees.*** The board of county commissioners may enter into group hospital and medical insurance contracts for the protection and benefit of its officers and employees, and the immediate families of those officers and employees. The board may pay all or part of the necessary premiums for its officers and

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employees and for the immediate families of those officers and employees. **7-8-26**

- ***Life and health insurance contracts for county officers and employees.*** The board of county commissioners may enter into group life and group health insurance contracts for the protection and benefit of its officers and employees, and their immediate families. The board may pay all or part of the necessary premiums for its officers and employees and for the immediate families of those officers and employees. **7-8-26.1**

- ***Individual hospital, medical, or health insurance contracts for county officers and employees.*** If a county officer or employee can demonstrate to the county commission of a condition which will leave the officer or employee uninsurable upon termination of employment with the county and elects not to participate in the group hospital, medical, or health insurance plans authorized by §§ 7-8-26 and 7-8-26.1, the board of county commissioners may enter into individual hospital, medical, or health contracts to provide for the protection and benefit of the officer or employee and the officer or employee's immediate family. The board may pay all or part of the necessary premiums for the coverage of the officer or employee and the officer or employee's immediate family. However, the monthly premium for an individual contract may not exceed the monthly premium for the group plan established in the county pursuant to §§ 7-8-26 and 7-8-26.1. **7-8-26.4**

- ***Health self-insurance plan for county officers and employees.*** A board of county commissioners may elect to provide group health insurance for its officers and employees and their immediate families under a plan of self-insurance in whole or in part. Any county self-insuring pursuant to this section shall purchase sufficient stop loss insurance and maintain sufficient reserves to ensure the availability of funds for the payment of benefits provided under the self-funded plan. **7-8-26.2**

- ***Purchase of liability insurance for sheriff, deputies, and employees.*** Each board of county commissioners may purchase and pay premiums on insurance covering and insuring the sheriff and each deputy and employee of the sheriff. The insurance shall insure against personal liability as a result of errors and omissions in the performance of official duties. The premiums shall be paid from the county general fund. **7-12-26.1**

- ***Insurance on county-owned improvements.*** The board of county commissioners may, whenever it appears to be for the best interests of the county and other taxing districts, procure insurance against the hazards of fire, windstorm, tornado, and hail, on buildings held by the county, or in which the county has an interest, situated on land acquired by tax-deed proceedings, foreclosure of school-fund mortgage, or otherwise, and the cost thereof shall be deducted from rentals of such land and buildings in the same manner as administrative expenses, as provided in § 7-31-12. **7-31-14**

INTEREST

- ***Lowest responsible bid accepted--Progress payments permitted in contract--Interest on payments withheld.*** The lowest responsible bid in all cases shall be accepted and the contract for the building or buildings may permit progress payments, but if so shall provide for retention of not less than the following percentages: twelve percent of the amount of the contract up to fifty thousand dollars; five percent of the next two hundred thousand dollars of the amount of the contract and two and one-half percent of the amount of the contract in excess of two hundred fifty thousand dollars until the contract is fully executed and the building or buildings completed to the satisfaction and acceptance of the board of county commissioners. However,

if the contractor has furnished the board all required records and reports and a final inspection has been made, the board shall pay to the contractor interest at the Category A rate of interest as established in § 54-3-16 on the amounts retained and on the final payment due the contractor beginning sixty days after the work under the contract has been completed, as evidenced either by the completion date established in the superintendent's or architect's letter of acceptance or by the use and occupancy of the building, and running until the date when payment is tendered to the contractor unless delay in payment has been the result of federal participation in such contract, in which event interest may not begin until sixty days after payment by the federal authority involved. **7-25-10**

- ***Certificates of indebtedness against delinquent taxes for payment of outstanding warrants, claims, and liabilities.*** For the purpose of providing funds for the payment of outstanding warrants and claims and liabilities, the board of county commissioners may, whenever the total amount of delinquent taxes for the preceding year on real estate payable into any fund shall be more than five percent of the total amount of taxes levied on real estate during the preceding year, without being required to submit the question of so doing to any election, by a resolution provide for the borrowing of money for the fund in an amount equal to the excess of delinquent taxes over five percent and shall issue certificates of indebtedness therefor, which shall be in denomination of one hundred dollars or multiples thereof, shall bear interest at a rate to be negotiated by the parties from the date thereof until paid and redeemed and shall be registered in the office of the county treasurer. **7-21-37**

- ***Interest payable on warrants not paid at time of presentation.*** All county warrants shall draw interest at a rate of interest to be determined by the county commissioners of the county until paid from the date upon which they are presented to the county treasurer and endorsed "Not paid for want of funds." **7-22-10**

- ***Annual payment of interest on outstanding warrants--Tax levy for interest payments.*** The board of county commissioners may determine by resolution that interest shall be paid annually on all outstanding registered warrants of such county. When it has been so determined, said board shall, at the time and in the manner provided for the levy of taxes, make a separate and special levy of a tax sufficient to pay one year's interest on each county warrant which according to the computation of the said board will be outstanding and unpaid on the anniversary of the date thereof during the next calendar year. Such levy may be made in addition to the maximum levy otherwise allowed by law and shall be certified by the county auditor, placed on the tax roll, and collected by the county treasurer as other taxes, which funds derived from such levy shall be kept separate and apart from other tax collections and shall be used only for the purpose of paying interest on warrants as herein provided. **7-22-11**

- ***Warrants to be paid in order of registration--Notices to be sent by treasurer--Termination of interest.*** All registered warrants shall be paid in the order of registration and the treasurer, as soon as money sufficient for the payment of the warrants is received to the credit of the particular fund upon which the warrants are drawn, shall immediately notify by mail the persons in whose names the warrants are drawn. If the treasurer receives written notice from some other person that such person is the holder of the warrant, then the treasurer shall notify the other person and interest upon the warrants shall cease. The treasurer shall pay and cancel the warrants upon presentation of the written notice. **7-22-15**

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INVESTMENTS

- ***Deposit and investment of debt service fund moneys--Resolution of county commissioners.*** Every county maintaining a debt service fund for the payment of outstanding bonds shall keep the accumulations in said debt service fund deposited with the lawful depositories or invested in registered warrants or bonds of any municipal or public corporation of the State of South Dakota, including those of the county issuing such bonds, or bonds, notes, or other obligations issued by any federal land bank, federal intermediate credit bank, bank for cooperatives, or any or all of the federal farm credit banks, or obligations of the United States, or bonds or securities of any kind issued by the State of South Dakota, and the interest accruing on such investment shall be credited to such debt service fund. Moneys in any debt service fund shall be invested only in such of the above-named securities as will become due and payable on or before the date when the bonds for the payment of which such debt service fund was created become due and payable, except bonds of the United States or of the State of South Dakota. Where such debt service fund is invested in other bonds of such county, there shall be a levy of a tax upon the taxable property of such county of sufficient amount to pay the interest and also the principal thereof when due and such tax, when collected, shall be returned to the debt service fund for that purpose. In carrying out the provisions of this section, all transactions shall be by resolution of the board of county commissioners which resolution shall be regularly filed and recorded with the county auditor as a public record. **7-24-19**
- ***Investment of building fund--Income paid into fund.*** The board of county commissioners shall have the power to loan or invest any balance of any such fund as referred to in § 7-25-1 upon first mortgages upon real property worth at least double the value of the sum loaned, or upon bonds of the State of South Dakota, or upon bonds or warrants of the county, or upon bonds of any municipality or school district within the county, at such legal rate of interest as may be agreed, and may also loan or invest such funds in United States government bonds, and the income from such loans shall be paid into such fund. **7-25-2**

IRRIGATION DISTRICTS Ch 46A-4,5 & 6

- ***Assessments levied for bond and United States contract fund--Collection by county treasurer.*** The assessments levied for the bond and United States contract fund mentioned in § 46A-7-10 shall be collected by the county treasurer at the same time and in the same manner as all other taxes are collected in this state. **46A-7-17**
- ***Withdrawal from construction fund and deposit in county treasury--Disbursement by county treasurer--Monthly report.*** The board of directors may draw from time to time from the construction fund and deposit, in the county treasury of the county where the office of the board is situated, any sum in excess of twenty-five thousand dollars. The county treasurer shall receive and receipt for the deposit and place the deposit to the credit of the district. The county treasurer is responsible on the treasurer's official bond for the safekeeping and disbursement of the deposit as provided in this chapter. The county treasurer shall pay out the deposit, or any part of the deposit, only to the treasurer of the district and upon the order of the board, signed by the president and attested by the secretary. The county treasurer shall report in writing on the second Monday in each month the amount of money in the county treasury credited to the district, the amount of receipts for the month preceding, and the amount of money paid out. The report shall be verified and filed with the secretary of the board. **46A-6-43**

- ***Responsibilities of county treasurer for taxes.*** All such taxes collected and paid to the county treasurer shall be received by the treasurer in the treasurer's official capacity. The treasurer is responsible for the safekeeping, disbursement, and payment of the taxes, the same as for other money collected in the treasurer's official capacity. **46A-7-21**
- ***Taxes received for capital projects and general funds--Remittance by county treasurer.*** All such taxes collected or received for the district capital projects and general funds, either in money, interest coupons, or warrants on general fund, by the treasurer of any county other than the one in which the district was originally organized shall be remitted by him to the treasurer of the county in which the district was originally organized, such remittance to be made on the fifth day of each and every month. All such taxes collected or received for the general fund of such district by the treasurer of the county in which the district was originally organized shall be paid to the treasurer of such irrigation district, upon an order signed by the president and secretary of such district, and all warrants received in payment of general fund taxes as provided in § 46A-7-19 may be turned over, as so much money, to the district treasurer on such order. **46A-7-20**

JAILS - JOINT EXERCISE OF GOVERNMENTAL POWERS Ch 1-24

- ***Agreements for cooperative action authorized--Approval by governing bodies.*** Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of §§ 1-24-2 to 1-24-9, inclusive. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force. **1-24-3**
- ***Agreements filed with attorney general and Legislative Research Council--Time.*** A copy of any agreement entered into pursuant to this chapter to which any state agency is a party shall be filed with the attorney general and the Legislative Research Council not more than fourteen days after being executed. **1-24-6.1**
- ***Creation of area jail or juvenile detention facility compact--Liquidated damages for withdrawal without consent--Acquisition of facilities--Funding--Operation--Lease with compact.*** Any combination of counties or municipalities of this state may enter into an agreement pursuant to chapter 1-24 for the creation of an area jail or juvenile detention facility compact which may be a separate legal entity. In addition to the provisions of chapter 1-24, an agreement pursuant to this section may be for any period of time and may provide for liquidated damages to be imposed upon any party withdrawing without the consent of all other parties to the agreement. The liquidated damages may not exceed the minimum contribution agreed to by the withdrawing party to termination of the agreement reduced to present value. The compact may own, purchase, construct or otherwise acquire ownership of jail or juvenile detention facilities located within any of the parties. The compact may issue revenue bonds, enter into lease, lease-purchase and sale, and lease-back agreements, either as lessee or lessor, in the manner provided in §§ 7-25-19 and 7-25-20, or take any other steps necessary to assist in funding jail or juvenile detention facilities. Operation of the jail or juvenile detention facility shall remain under the authority of the county where the facility is located or by agreement with a municipality. Any county or municipality may enter into lease or lease-purchase agreements with an area jail or juvenile detention facility compact pursuant to §§ 7-25-19 and 7-25-20. **24-11-4.1**
- ***Annual Prisoner Rate For Members--Additional Compensation To Sheriff--Daily Prisoner Rate For Nonmembers.*** The compact agreement shall provide for annual minimum fees for providing facilities for specified numbers of prisoners by each member. The compact agreement may further provide for additional compensation payable to the sheriff of the county in which the facility is located, provided that the sheriff is the person in charge of the facility, equal to ten percent of the authorized salary in § 7-12-15. This amount shall be paid to the sheriff in addition to the amount set forth in § 7-12-15. In addition, the agreement shall provide a daily prisoner rate for nonmembers which may not exceed five times the daily rate charged to members. **24-11-4.2**
- ***Money Collected For Housing Prisoners--Distribution To Member Operating Facility And Compact Debts--Excess Funds.*** Notwithstanding § 24-11-8, in the case of jail facilities located in a county participating in a compact pursuant to §§ 24-11-4.1 to 24-11-4.3, inclusive, money collected for housing prisoners shall be paid to the officer designated by the agreement who shall distribute the money so received to the member operating the facility under the terms of the agreement and shall apply remaining funds to retirement of the compact's financial obligations. Excess funds, if any, shall be held by the compact and may be used by the compact to make capital improvements to existing facilities or for the creation of new facilities. **24-11-4.3**

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- ***Municipality, County, Or Jail Compact Authorized To Construct, Lease, Operate, Purchase, Maintain, Or Manage Correctional Facilities--Contract With Private Entity.*** Any municipality, county, or jail compact established pursuant to § 24-11-4.1, may construct, lease, operate, purchase, maintain, or manage a jail, correctional facility, detention center, work camp, or related facility, either for its own inmate or prisoner needs or for the inmate or prisoner needs of the Department of Corrections or any other municipality, county, state, or federal agency, whether within the State of South Dakota or outside the State of South Dakota. Any such facility may be operated by a private entity under contract with the compact, municipality, or county. In addition, the authority granted to counties in §§ 7-25-19 and 7-25-20 applies to this section and §§ 24-11-40 to 24-11-44, inclusive. **24-11-39**
- ***Giving or promising anything of value to public officials to secure settlement, remission, or reduction as felony.*** No bail bondsperson or runner may pay a fee or rebate or give or promise anything of value to a jailer, police, peace officer, committing magistrate, or any other person who has power to arrest or hold in custody; or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or the forfeiture thereof. Violation of this section is a Class 6 felony. **58-22-33**
- ***Detention in jail with adult prisoners prohibited for abused or neglected child--Temporary detention--Detention with adults for child transferred to adult court.*** No apparent, alleged, or adjudicated abused or neglected child may be securely detained at any time in a jail, lockup, or in any type of detention or temporary care facility containing adult prisoners. An apparent, alleged, or adjudicated child in need of supervision may not be securely detained in a jail, lockup, or in any type of detention or temporary care facility containing adult prisoners except for approved collocated detention centers as defined in § 26-7A-1 and as authorized in §§ 26-8B-3, 26-8B-6, and 26-7A-20. An apparent or alleged delinquent child may be held in an adult lockup or jail for up to six hours for purposes of identification, processing, interrogation, transfer to juvenile facility, or release to parents if the child is sight and sound separated from adult prisoners. In any area not designated as a metropolitan statistical area by the United States Bureau of the Census, an apparent or alleged delinquent child may be held in an adult lockup or jail for up to forty-eight hours excluding holidays and weekends or until the temporary custody hearing, whichever is earlier, if the facility has been certified by the Department of Corrections as providing sight and sound separation of juveniles from adults and if no suitable juvenile facility is available. A child who has been transferred to adult court pursuant to § 26-11-4 or a child who is being tried in circuit court as an adult pursuant to § 26-11-3.1 may be held in an adult lockup or jail if physically separated from adult prisoners. A child who has attained the age of majority who is under the continuing jurisdiction of the court or the Department of Corrections may be held in an adult jail or lockup. A child under the age of eighteen years who has been transferred to adult court pursuant to §§ 26-11-3.1 or 26-11-4 and who has been convicted of a felony as an adult may be held in an adult jail or lockup. **26-7A-26**
- ***Circuit court jurisdiction as to persons detained.*** The circuit court has jurisdiction to inquire into the cause of detention of all persons confined in the jail of the county or otherwise detained, and to make an order for their recommitment or discharge, or otherwise according to law, and to exercise such other powers as are conferred by the Constitution and statutes of this state. **16-6-14**

- ***Establishment of county jail at expense of county.*** There shall be established and maintained in every county, by authority of the board of county commissioners and at the expense of the county, a jail for the purposes stated in this chapter, except as provided in § 24-11-3. **24-11-2**
- ***Taking prisoner from another state to demanding state through this state--Confinement in jail.*** The officer or agent of a demanding state to whom a prisoner may have been delivered following the extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or first or second class municipality through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state. **23-24-14**
- ***Confinement of federal prisoners--Compensation--Penalty for violation.*** All sheriffs or officers having charge of any jail to whom any person shall be sent or committed by virtue of legal process issued by or under the authority of the United States, shall receive such person into custody and safely keep him until he is discharged by due course of the laws of the United States. The United States shall be liable to pay for the support and keeping of such prisoners at such rates as may be negotiated between the United States and the local jail authority. Any sheriff or other officer violating the provisions of this section shall be subject to the same penalties and shall be liable in like manner as if such person has been committed to their custody by legal process issued under the authority of this state. **24-11-6**
- ***Sheriff's calendar of federal prisoners in custody--Transmission to federal district judge--Allowance and payment for keeping prisoners.*** Before every stated term of the United States court to be held within this state, the sheriffs or officers having charge of jails shall make, under oath, a calendar of prisoners in their custody under the authority of the United States, with the date of their commitment, by whom committed, and for what offense, and transmit the same to the judge of the district court of the United States for the proper district, and at the end of every six months they shall transmit to the United States marshal of the proper district, for allowance and payment, their account, if any, against the United States, for the support and keeping of such prisoners. **24-11-7**
- ***Confinement of fugitive from justice--Compensation.*** Any county jail may be used for the safekeeping of any fugitive from justice in this state, in accordance with the provisions of any act of Congress, and the jailer shall in such case be entitled to reasonable compensation for the support and custody of such fugitive from the officer having him in custody. **24-11-5**
- ***Liability of private entity contracting for correctional facility.*** A private entity operating under a contract authorized by § 24-11-40 or 24-11-41 is not entitled to claim sovereign immunity in a suit arising from the services performed under the contract by the private entity. However, this section does not deprive the private entity or the compact, municipality, or county of any benefits of any law limiting exposure to liability, setting a limit on damages or establishing defenses to liability. **24-11-43**

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- ***Furnishing prisoner necessities--Receipt of medical treatment as assignment of insurance proceeds, etc.--Unrecovered payments as lien.*** The governing body or board of county commissioners is responsible for securing bedclothing, laundry, board, nursing when required, and all necessities for the comfort and welfare of the prisoners. If a prisoner or any person under arrest receives medical treatment pursuant to this section for which the governing board or board of county commissioners is liable, the receipt of such medical treatment shall, as to the person receiving such treatment, operate as an assignment by operation of law of any rights to medical support, insurance proceeds, or both, that the prisoner or person under arrest may have for himself. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this section. Any payments made under this section for medical care not recovered shall constitute a lien pursuant to § 28-14-1. **24-11-21**
- ***Malfeasance by jail officials--Misdemeanor.*** Any officer or person having charge of any jail who refuses or intentionally neglects to perform any duty required by the provisions of this chapter or the policies and procedures implemented through the provisions of § 24-11-23, is guilty of a Class 2 misdemeanor. **24-11-38**
- ***Failure to separate sexes as misdemeanor.*** It is a Class 2 misdemeanor for any officer having charge of any jail to keep together in the same cell block male and female prisoners, except husband and wife. **24-11-20**
- ***Municipal jail--Use of county jail.*** Every municipality shall have power to establish, maintain, and regulate a jail or, with the consent of the board of county commissioners, to use the county jail for the confinement of persons charged with or convicted of the violation of any ordinance. **9-29-24**
- ***Counties without jails or juvenile detention facilities--Overcrowded or unsafe jails and facilities--Confinement in adjoining political subdivision--Expenses.*** If there is no jail or juvenile detention facility in the county, or if the jail or juvenile detention facility in the county is crowded, unsafe, or otherwise insufficient to conform to the requirements of this chapter, every judicial or executive officer of the county who has the power to order, sentence, or deliver any person to the county jail or juvenile detention facility may order, sentence, or deliver such person to the jail or juvenile detention facility of any near or adjoining state, Indian reservation, county, organized township, or municipality, pursuant to a written agreement to house such prisoner. The written agreement shall contain provisions addressing liability issues and facility standards and shall also contain appropriate provisions assuring that the agency housing the prisoner shall release the prisoner to the county from which the prisoner was committed within two days of receiving a request from the committing county. Any written agreement with a federally recognized Indian tribe shall receive approval from the Bureau of Indian Affairs prior to the delivery of any prisoner. The county from which the prisoner was committed shall pay to the agency housing the prisoner all expenses of keeping and maintaining the prisoner in the jail or juvenile detention facility, including the cost of building depreciation, administration, and a reasonable charge for obsolescence of the facility and all other tangible and intangible costs. **24-11-3**
- ***Contract for placement of inmates or prisoners--Certain private entities excepted.*** The governing body of any compact, municipality, or county may contract with a private entity to place inmates or prisoners in a detention facility, jail, correctional facility, work camp, or related facility operated by a private entity. The governing body of the compact, municipality, or county may not contract with a private entity in which a member of the governing body of the compact,

municipality, or county or an elected or appointed peace officer who serves in the municipality or county has a financial interest. **24-11-40**

- **Contract with local jail for custody and care of prisoners.** The Department of Corrections may contract with any local jail in the state for the custody and care of prisoners committed to the state penitentiary at a rate to be negotiated by the secretary of corrections.

24-1-35

- **Criminal records of inmates of penal institutions--Procuring and filing.** The attorney general shall procure and file for record the fingerprint impressions and other means of identification and statistical information of all persons contained in any workhouse, jail, reformatory, penitentiary, or other penal institutions, together with such other information as he may require from the law enforcement officers of the state and its subdivisions. **23-5-3**
- **Officer in charge of jail--Conformance to policies and procedures.** The sheriff or other officer designated by law or ordinance shall have charge of the jail of his county or municipality and of all persons by law confined therein. The officer in charge of any jail shall conform in all respects to the policies and procedures required by § 24-11-23. **24-11-13**
- **Power of circuit judge to visit jail and make order--Violation of order as contempt.** The judge of the circuit court may visit, inspect, and supervise all the jails in his circuit and all county and municipal officers shall comply with the orders of such court relating to jails or inmates therein, in accordance with law and the policies and procedures provided for in § 24-11-23, and the violation of any such order may be punished as a contempt of court. **24-11-27**
- **Sentence for violation of local law--Labor performed under local governing body for its benefit.** When sentence is for a violation of an ordinance, bylaw, or regulation of a municipality or civil township, the labor described by §§ 24-11-28 and 24-11-29 shall be performed under the direction of its governing body, who shall furnish the materials at the expense of the municipality, or civil township entitled to the benefit thereof, subject to the provisions of this chapter. **24-11-31**
- **Crediting work against fine imposed.** In addition to the compensation provided by § 24-11-32, for each day's labor the prisoner shall be credited two dollars on any judgment for fine, and when imprisoned in default of payment of a fine, he shall be discharged whenever he has performed sufficient labor at such rate to pay the same. **24-11-33**
- **Prevention of escape while working.** The officer in charge of prisoners sentenced to labor pursuant to § 24-11-28 may use all reasonable means necessary to prevent escape or to enforce obedience. **24-11-35**

JUDGMENTS

- **Bond issue for satisfaction of judgment against county.** If a judgment has been recovered against a county upon any claim, and the judgment has become final by expiration of the time for appeal or decision upon appeal, the governing body of the county, by a resolution declaring it to be for the best interests of the county, passed and entered upon its records, published in its proceedings may without submitting the matter to a vote of the voters issue bonds of the county for the purpose of compromising the judgment. The bonds shall be delivered only to the judgment creditor or his successor in ownership of the judgment, upon a complete release and satisfaction of the judgment. The bonds may not exceed the amount due upon the judgment at date of the bonds. All bonds shall be issued and sold as provided in chapter 6-8B.

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- ***Circuit court judgment and order on appeal from county commissioners.*** The circuit court may make a final judgment and cause the same to be executed or may send the same back to the board of county commissioners with an order how to proceed, and require such board to comply therewith by mandamus or attachment as for contempt. **7-8-31**
- ***Recording of votes by county commissioners.*** Whenever any board of county commissioners shall act upon any petition, adopt any resolution, make any appointment to fill any vacancy in a county office, or enter any final order in any proceedings pending before any such board, the members shall vote by yeas and nays and a record of such votes shall be kept by the county auditor who shall include the same in the published report of the minutes containing the record of any such action, resolution, appointment, or order. **7-18-7**

JURY Ch 16-13

- ***Master jury list for each county--Courts by which used--Summons to supply deficiency--Annual compilation of list.*** There shall be a master jury list for each county from which jurors shall be drawn for service as grand jurors and as petit jurors for the circuit and magistrate courts; provided that talesmen may be summoned by order of the presiding judge in the manner provided by law to supply any deficiency in the number of jurors required. Such jury list shall be compiled each year and shall be used in the drawing of jurors to be summoned during the following calendar year. **16-13-1**
- ***Qualifications of jurors.*** Any citizen of this state, who is a resident of the county or jury district where the jury is selected, eighteen years of age or older prior to January first of the year of jury service, of sound mind and who is able to read, write, and understand the English language, is eligible to serve as a juror. Any member of the clergy, as defined in § 19-19-505, if jury service conflicts with religious belief, is exempt from jury duty. Any member of a church or religious organization is exempt from jury duty if jury service conflicts with the religious belief of that church or religious organization. Any person who has been convicted of a felony unless restored to civil rights is not eligible to serve as a juror. No potential juror may be excluded from jury duty because of a visual or hearing impairment. **16-13-10**
- ***Circuit court order required for summons of grand jury.*** A grand jury shall not be drawn, summoned, or required to attend at the sitting of any circuit court unless the judge thereof shall so direct by written order under his hand filed with the clerk of courts. **16-13-21**
- ***Service by sheriff on circuit court juror failing to return acceptance of service--Fees deducted from juror's compensation.*** If any juror residing in the county shall fail, neglect, or refuse to sign the acceptance of service provided in § 16-13-34 and to mail such acceptance to the clerk of courts within fifteen days after service of the notice on said juror, the notice shall be served on such juror by the sheriff. The amount of the sheriff's fees shall be endorsed on the notice with the return of the sheriff, and the amount of such fees shall be paid by such juror and shall be deducted by the clerk of courts from the compensation the juror would be entitled to receive for his attendance before the court. **16-13-35**
- ***Weekly payment of jurors.*** Any juror having compensation or mileage or both due and owing him may receive payment for it at the end of every week. **16-13-47-1**

JUVENILE COURTS Ch 26-7A

- ***County to care for children pending adjudication.*** A board of county commissioners shall provide by contract or otherwise for the temporary care, shelter or detention of children under this chapter and chapters 26-8A, 26-8B, and 26-8C pending the adjudication of such children. Section 26-7A-94 governs the payment of custodial costs of children. **26-7A-25**
- ***Temporary care, shelter, or detention facilities maintained by board of county commissioners.*** A board of county commissioners may provide and maintain at public expense temporary care, shelter, or detention facilities, sight and sound separated from adult prisoners, where children coming within the provisions of this chapter or chapter 26-8A, 26-8B, 26-8C, or §§ 26-11A-13 and 26-11A-14, may, if necessary or appropriate, be placed for temporary care, temporary custody, shelter, or detention as designated by the court, or temporary detention or shelter by the Department of Corrections. Sections 26-11A-19 and 26-7A-94 governs the costs of custodial care of children. **26-7A-23**
- ***Intercounty contracts for use of facilities.*** If a board of county commissioners provides and maintains temporary care, shelter, or detention facilities under § 26-7A-23, the board may contract or enter into an agreement under the authority of chapter 1-24 with the board of county commissioners of other counties of the state to receive the children of other counties who may be ordered to be placed in temporary care, shelter or detention in appropriate facilities under the provisions of this chapter and chapter 26-8A, 26-8B, 26-8C, or §§ 26-11A-13 and 26-11A-14. The board of county commissioners determines the charges for such services to be paid by the other county, subject to §§ 26-7A-94 and 26-11A-19, and thereafter shall receive such children in its facilities according to the terms and conditions of the contract or agreement. In addition to the provisions of chapter 1-24, an agreement pursuant to this section may be for any period of time and may provide for liquidated damages to be imposed upon any party withdrawing without the consent of all other parties to the agreement. The liquidated damages, reduced to present value, may not exceed the minimum contribution agreed to by the withdrawing party upon termination of the agreement. **26-7A-24**

LEASE OF LAND Ch 7-30 and 7-31

- ***Real estate subject to lease--Place of offering at public auction--Annual leasing date.***

All real estate belonging to any county in this state, and not required for immediate public use, may be leased as hereinafter provided. Such real estate, except such as is located within the area of a cooperative grazing association and leased to such association, shall be offered for lease at public auction at the courthouse of the county within which such real estate is situated. If there be no courthouse, then at the building in which the office of the county auditor is located. The annual leasing date of such property shall be fixed by the board of county commissioners each year and advertised accordingly. **7-30-1**

- ***Conduct of auction--Continuation--Adjournment.*** The county auditor shall attend to the publishing of such notice and shall conduct the auction. The auction shall continue from day to day until all tracts of land for lease shall have been offered. The county auditor may for good cause adjourn the auction for a period of not more than three days. **7-30-3**

- ***Lease after auction.*** Nothing in this chapter shall be construed so as to prevent the board of county commissioners from leasing all such real estate, except residence property, after the auction date on such terms and conditions as the board may determine. **7-30-13**

- ***Lease to highest bidder--Minimum rental.*** Each tract of land shall be leased to the highest bidder. Before the auction date the board of county commissioners shall fix by resolution a minimum rental rate for each tract of land. No bid may be accepted which is less than the minimum rental rate. **7-30-4**

- ***Separation of subdivisions and reoffer if satisfactory bid not received.*** When a tract is offered for lease and no satisfactory bid is received therefor, the legal subdivisions thereof, if any, may be separately offered; or such tract may be offered in connection with contiguous tracts which have been offered and for which no acceptable bid has been received. **7-30-11**

- ***Terms and conditions of lease.*** The lease authorized under the provisions of this chapter shall be on such terms and conditions as the board of county commissioners may determine to be most advantageous to such county, unless otherwise provided by statute. **7-30-8**

- ***Lease of federal or state real property for public purposes.*** Any county may lease real property within the county from federal or state agencies to promote, establish, and maintain recreational, industrial, or economic development opportunities, and may sublease the property to any person for any such authorized public purpose. Any lease or sublease shall be authorized on the terms and in the manner provided by resolution of the commissioners, and the provisions of chapter 7-30 do not apply. **7-18-28**

- ***Permit to build dam on leased land.*** Any lessee of county real estate of the character described in § 7-30-1 shall upon application to the board of county commissioners be granted a permit to build a dam on the leased land for the collection and storage of surface water thereon, if the written approval of the federal district range program inspector of the site of the proposed dam and reservoir is attached to said application. **7-30-15**

- ***Sale or lease of real property for industrial development or public purposes--Terms of lease.*** Every county shall have power to lease or sell on a negotiated basis and to convey any of its real property to a municipality or the state or another county, or to a nonprofit local industrial development corporation as defined by § 7-29-24 and located therein, to be used by such grantee for an authorized public purpose or industrial development purpose as enumerated in § 9-54-1. Such lease or sale shall be authorized on the terms and in the manner provided by resolution of the county commissioners. **7-29-23**

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- ***Lease of residential property from month to month--Offer of higher rental.*** If such real estate is to be leased for residence purposes only, and does not include the lease of any agricultural or grazing lands, it may be leased on terms of month-to-month leasing by resolution of the county commissioners without public auction or advertising. The resolution of the county commissioners in such cases shall recite the monthly rental of such property. If any person shall offer to pay in advance a monthly rental twenty-five percent in excess of the rental then being paid for such residence property, the county commissioners must accept the same upon deposit of such rental in advance. **7-30-14**
- ***Termination of lease on non-payment of rent.*** Any lease for more than the current calendar year shall terminate on the last day of January of any year unless the lessee pays prior thereto the amount of the annual rental for the next succeeding year to the county treasurer. **7-30-9**
- ***Lease on sharecrop basis--Lien on crop.*** If any of the land offered for lease is land under cultivation, the commissioners may lease the same either for cash or upon part cash and part sharecrop basis or entirely upon a sharecrop basis according to the bid which in their discretion they may decide to be to the best interest of the taxing districts involved. In case of share rent or part share rent, the lease shall provide for a lien upon the crop and the same shall be filed for record notice of such lien. **7-30-7**
- ***Apportionment of rental proceeds from tax-deed lands.*** The rental proceeds in any one year from the real estate acquired by counties under tax deed shall, after deducting the expenses of taking such tax deed and after deducting an amount agreed upon by the board of county commissioners necessary for general administrative expenses of tax-deed land, be apportioned by the county officials controlling such proceeds in the same manner as taxes on real estate due and payable during the same year are apportioned. **7-31-12**
- ***Lease of class one grazing land.*** Class one land and all county land in those counties which have not by resolution of the board of county commissioners established a classification may be leased as follows: all grazing land classified as class one land belonging to any county of this state, acquired in satisfaction of a school-fund loan mortgage or through foreclosure of such, or acquired through tax-deed proceedings or in payment of taxes, may be offered for lease at public auction, provided that any land remaining unleased may be offered and leased privately under direction of board of county commissioners. **7-31-4**
- ***Lease of class two land--Conservation measures required.*** Class two land shall be leased according to provisions prescribed by the board of county commissioners provided, however, no such lease shall be entered into unless the board of county commissioners in order to conserve and protect the existing forage resources of such county land and to restore the maximum carrying capacity of such land shall reserve the right to regulate and limit the amount of grazing thereon and to change the rentals annually in accordance with a variable scale of rental charges based on market prices for livestock or livestock products, the number and character of stock to be grazed, the carrying capacity of the land, or on any combination of these factors. **7-31-5**
- ***Termination of leases on class two land on reclassification or failure of lessee to abide by regulations.*** Leases on class two land may be terminated at the option of the board of county commissioners if the lessee fails to abide by the regulations as to use and protection of the land or to pay the annual rental in advance provided that leases on class two land may be terminated by reclassification of the land as class one land as provided in § 7-31-3, all of which provisions shall be made a part of the lease. **7-31-6**

- **Permit to erect improvements on leased land--Ownership of improvements.** Whenever any land of a county has been leased, the board of county commissioners may grant to the lessee of such land a permit to erect thereon buildings, corrals, fences, well apparatus, wells, dams, and other water facilities; provided, that in no event shall the county become liable for any material furnished for, nor any labor performed in such improvements. The said lessee shall be the owner of such improvements subject to the provisions of §§ 7-31-8 to 7-31-11, inclusive. **7-31-7**

- **Payment to lessee for improvements not capable of removal--Time of valuation.** A subsequent lessee or a purchaser of the land shall pay the prior lessee the reasonable value of improvements erected by him within permission of the board of county commissioners, that are not physically capable of removal, and such payment shall be made before a lease, contract of purchase, or deed is issued to such subsequent lessee or purchaser. The value of the improvements shall be determined as of the date of such lease, contract of purchase, or deed.

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- **Mineral, oil and gas leases permitted.** To foster and encourage the development and exploitation of mineral, oil, gas, or other substances or commodities among the natural and physical resources of the State of South Dakota, and for the purpose of developing the resources, and operating and carrying on works of internal improvement in the State of South Dakota, any county of this state, as lessor, through its board of county commissioners, is hereby authorized to execute and issue in the name of such county leases for the exploration and development of, and production of oil or gas from any of the lands belonging to any county of this state acquired in satisfaction of a school-fund loan mortgage or through foreclosure of such, or acquired through tax-deed proceedings or in payment of taxes, to any lessees for such a term of years and upon such terms as may be prescribed and contracted by the board of county commissioners of any county in the state in the exercise of their best judgment, to induce drilling operations and production of oil or gas in paying quantities. **7-31-38**

- **Royalty agreements required in oil and gas leases.** All such leases as described in § 7-31-38 shall provide for the delivery to the said county in the pipeline to which said lessee may connect the wells, of a royalty of one-eighth of the oil or gas produced, saved, and marketed from the leased lands, or the equivalent proportion of the market value of such oil and gas in the field at the time of production, at the option of the said board of county commissioners; provided, however, no royalty shall be payable from oil or gas used in operations on the land for the development of oil or gas therefrom. Provided, further, that of the oil or gas so used, the same shall be in the proportion of seven-eighths belonging to the lessee or assigns, and one-eighth which but for such use would be delivered to the said county lessor. **7-31-39**

- **Cancellation of leases for non-payment or non-performance--Notice and opportunity to remedy default.** The board of county commissioners of any county is hereby authorized to cancel any lease issued as provided in § 7-31-38 for non-payment of rentals, if any are required by the lease, or for non-performance by the lessee of any provision or requirement of the lease; provided, however, that if such cancellation shall be made the said board of county commissioners must mail to the said lessee, or assigns, by registered or certified letter addressed to the post office address of said lessee or assignee, a notice of intention to cancel said lease, specifying the default for which the lease is subject to cancellation, and if within thirty days after the mailing of said notice to the said lessee or assignee, he shall remedy the default specified in said notice, then no cancellation of said lease shall be ordered by the board of county commissioners, but otherwise the cancellation shall be made and all rights of the lessee or

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assignee under the lease shall thereupon terminate. **7-31-41**

- ***Power of county commissioners to withhold land from oil and gas leasing.*** Nothing contained in §§ 7-31-38 to 7-31-42, inclusive, shall be construed as requiring the board of county commissioners of any county to lease any tract or tracts of land, nor to offer to lease the same, and said board of county commissioners shall have power to withhold any tract or tracts from leasing for oil or gas purposes, if in the opinion of said board the best interests of the county shall be served by so doing. **7-31-43**

- ***Sale or other disposition of oil and gas rights.*** The said board of county commissioners is likewise hereby authorized to sell, assign, or otherwise dispose of any leases to, or interests in, any of said oil or gas rights mentioned in §§ 7-31-38 to 7-31-43, inclusive, or any fraction or part thereof belonging to said county, and such sales are hereby authorized to be made accordingly, whether private or by public auction, or either or both. **7-31-44**

- ***Form of lease--Entire quarter section leased where water right jeopardized.*** The form of the lease shall be such as may have been prescribed by the board of county commissioners, provided, whenever the leasing of a legal subdivision of less than one quarter section containing a water privilege or right shall jeopardize the leasing price of the remaining acreage of said quarter section, no lease of a legal subdivision shall be granted to the lessee unless the lessee shall lease the entire quarter section. **7-30-6**

LEGAL EXPENSE RELIEF FUND: Refer to → COUNTY LEGAL EXPENSE RELIEF FUND

LEGAL INTERNS Ch 16-18

- ***Appearance by legal intern or extern for state, county, or first or second class municipality.*** A legal intern or extern may appear in any civil, criminal, or quasi-criminal matter on behalf of the state, a county, or a first or second class municipality with the written approval of the attorney general, state's attorney, or city attorney, as the case may be. The legal intern or extern shall be under the supervision of the approving attorney, or of a deputy or assistant thereof, who has the responsibility as supervising lawyer. The approval may be for a specific case or matter or may be general for a series or type of cases or matters as appears in order to the approving attorney. The approval may be withdrawn at any time by the approving attorney without notice, hearing, or cause stated; and the withdrawal shall be filed pursuant to § 16-18-2.8. Unless the court orders otherwise, the appearance by the legal intern or extern may be in the absence of the supervising lawyer. **16-18-2.5**

LIABILITY Ch 3-21

- ***Notice prerequisite to action for damages--Time limit.*** No action for the recovery of damages for personal injury, property damage, error, or omission or death caused by a public entity or its employees may be maintained against the public entity or its employees unless written notice of the time, place, and cause of the injury is given to the public entity as provided by this chapter within one hundred eighty days after the injury. Nothing in this chapter tolls or extends any applicable limitation on the time for commencing an action. **3-21-2**

- ***No liability for failure to provide correctional facilities or equip., services, etc., therein.*** No person, political subdivision, or the state is liable for failure to provide a prison, jail, or penal or correctional facility, or if such facility is provided, for failure to provide sufficient equipment,

personnel, programs, facilities, or services in a prison or other correctional facility. **3-21-8**

- ***No liability for parole or release of prisoner or revocation thereof or for certain other matters.*** No person, political subdivision, or the state is liable for any injury resulting from the parole or release of a prisoner or from the terms and conditions of his parole or release or from the revocation of his parole or release, or for any injury caused by or resulting from:

- (1) An escaping or escaped prisoner;
- (2) An escaping or escaped person;
- (3) A person resisting arrest;
- (4) A prisoner to any other prisoner; or
- (5) Services or programs administered by or on behalf of the prison, jail, or correctional facility. **3-21-9**

LIABILITY POOL Ch 3-22

- ***Public entity pool for liability established--Coverage provided--Effect on certain claims and defenses.*** There is hereby established the South Dakota public entity pool for liability effective March 1, 1987. PEPL shall provide defense and liability coverage for any state entity or employee as provided for within the coverage document issued by PEPL. Nothing in this chapter may be construed to require payment of a particular claim or class of claims, to create any cause of action, nor to waive or limit any immunity or legal defense otherwise available to any covered claim. Punitive damages may not be recovered pursuant to this chapter. No claim for indemnity or contribution by the United States, arising directly or indirectly from the acts or omissions of the South Dakota National Guard, its agents, officers, members, or employees, which is cognizable under the Federal Tort Claims Act may be prosecuted under this chapter. **3-22-1**

- ***Liability pool not to be considered insurance or insurance company.*** The PEPL does not constitute insurance nor may it be considered an insurance company under the laws of South Dakota nor is the PEPL under the jurisdiction of the commissioner of insurance. **3-22-18**

- ***Immunity of judicial officers and agents--Payment of legal costs.*** Nothing in this chapter may be construed to remove or waive the immunity of judicial officers or agents in the performance of their duties. The fund shall, however, provide legal services, if requested by the Supreme Court, to defend judicial officers or agents should they be sued in any court for official acts in the performance of their duties. The payment of legal costs shall in no way be construed as a waiver of judicial immunity. **3-22-21**

LIBRARIES Ch 14-6

- ***County lawbook and law library fee.*** Upon order of the presiding judge of the circuit court made and filed in the office of the clerk of courts of any county within the circuit of which such county is a part, the clerk of courts of such county shall collect in each civil action, proceeding for judicial remedy, and probate proceeding, as a county lawbook and county law library fee, a sum of three dollars in actions commenced pursuant to chapter 15-39 and a sum of seven dollars in all other civil actions, proceedings for judicial remedy, and probate proceedings. The clerk shall collect the fee in the manner in which other fees are collected from the plaintiff or person instituting the action or proceeding, at the time of filing the first paper in the action or proceeding. However, no surcharge may be collected for any petition or motion to modify final orders for child support, child custody, child visitation, or spousal support or in any civil action or proceeding for judicial remedy commenced by the state, a county, a municipality, or a school

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district. **14-6-1**

- ***Lawbook and law library fees taxable as costs.*** The lawbook and law library fees provided for in § 14-6-1 shall be costs in the case, and taxable as such. **14-6-2**

- ***Use of county lawbook and law library fund--Acceptance of gift, donations, and bequests authorized.*** The county lawbook and law library fund shall be used at the direction of the circuit judges and as by them deemed necessary for the purchase of law books, computer assisted research services, presentation technologies, software, or related equipment and to pay the necessary expenses of equipping and maintaining a law library in the courthouse or other suitable place provided by the county, or other suitable place outside the county in the circuit as directed by the circuit judges. In addition the county may appropriate additional amounts for such purposes and may receive gifts, donations, and bequests for such purposes. **14-6-4**

- ***Use of county law library.*** The use of the county law library shall be open to all judges of courts of record, to all state officials, to all officials of the county wherein located, to members of the State Bar, and to the inhabitants of the county under such conditions as provided by the circuit judges. **14-6-5**

LIVESTOCK

- ***Purchase or lease of county lands.*** Any incorporated grazing association may purchase or lease any and all lands owned by the county not already leased, and located within the proposed district. **40-23-24**

- ***County and municipal expenditures for disease control--Cooperation with state and federal agencies.*** Boards of county commissioners and governing bodies of municipalities may appropriate and expend money for the control or eradication of any infectious, contagious, and communicable diseases among livestock within their respective boundaries. Such funds shall be used in cooperation with the State Animal Industry Board and the United States Department of Agriculture. **40-5-19**

- ***Counties included in inspection area.*** The South Dakota livestock ownership inspection area consists of all of that part of the State of South Dakota lying within the following counties: Harding, Butte, Lawrence, Pennington, Custer, Fall River, Perkins, Meade, Oglala Lakota, Corson, Dewey, Ziebach, Haakon, Stanley, Jackson, Jones, Mellette, Bennett, Todd, Lyman, Tripp, and Gregory. **40-20-1**

- ***Petition for addition of county contiguous to ownership inspection area--Discretion of board--Minimum area added.*** Any county contiguous to the livestock ownership inspection area may become a part of such area upon a petition signed by a majority of the owners of livestock residing within such county to be attached, which shall be presented to the board. The board shall, in its discretion, either reject or approve such petition at its next regular or special meeting. No area in the brand inspection area may be smaller than a county. **40-20-2**

- ***Withdrawal of county from inspection area by petition--Minimum area withdrawing.*** Any county which has become a part of the livestock inspection area by petition and which adjoins a noninspection area may withdraw from the inspection area by a petition requesting withdrawal. The petition shall be signed by a majority of the owners of livestock in the county seeking withdrawal. The petition shall be filed with the board. The board shall at its next regular or special meeting enter a resolution approving the withdrawal, which action removes the county described in the petition from the ownership inspection area. No area seeking withdrawal may be smaller than a county. **40-20-3**

- ***County appropriations to animal damage control fund--Certification of amounts--State matching funds.*** Each county shall annually appropriate a sum equal to an assessment on all cattle and sheep based on the most current United States Department of Commerce census of agriculture, and the money shall be remitted to the state treasurer for deposit in the state animal damage control fund. Each county shall be assessed at a rate of twenty-five cents per head for all sheep and six cents per head for all cattle. The Department of Game, Fish and Parks shall certify, to each county auditor, the amount to be appropriated. The state animal damage control fund shall be matched two dollars for every one dollar of county appropriation by funds of the Department of Game, Fish and Parks to carry out the provisions of this chapter. **40-36-11**
- ***Special tax on sheep in eastern counties levied on petition of sheep owners--Predatory animals defined.*** When the board of county commissioners of any county east of the Missouri River is petitioned by two-thirds of the sheep owners whose names appear on the tax rolls of such county, to levy a special tax levy, not to exceed ten cents per head on all sheep within the county, for the purpose of raising a fund to be expended for the control of predatory animals as defined in this section, said board is hereby empowered to make such levy and collect the tax in the manner provided for the collection of other property tax. For the purpose of this section, predatory animals shall mean coyotes and foxes. **40-36-34**
- ***County bounty payable on coyotes.*** The board of county commissioners may, by resolution, offer a bounty of not more than four dollars for each coyote killed within the limits of the county. **40-36-37**
- ***Actions by county and landowner for costs and damages--Application of proceeds of sale.*** The county and the person suffering damage from such trespass may sue jointly or severally for their several costs, expenses, and damages; provided that the receipts of the sale shall be applied in the following manner: first, in payment of costs, expenses, and disbursements of the sheriff and any remainder shall be paid to the clerk of the circuit court to be applied upon the payment of any judgment thereafter secured by the person suffering damage, provided that such action shall be brought in the proper court within sixty days from the date of such sale. **40-28-17**
- ***County reimbursement of sheriff for costs not recovered from sale--Recovery from owner of animals.*** If the proceeds of a sale pursuant to § 40-28-15 shall be insufficient to reimburse the sheriff for his costs and disbursements as provided in § 40-28-12, then the county shall reimburse the sheriff for such costs and disbursements as he may have expended in the taking, caring for, and sale of the animals in excess of the amount received from such sale, and the county may recover in a civil action, any amount so expended by it from the owner or person having such animals in charge at the time of such taking. **40-28-16**

MAGISTRATE COURTS Ch 16-12A

- ***Counties to provide facilities for court.*** Each county in the state shall provide suitable and adequate facilities for the magistrate court, including the facilities necessary to make the space provided functional for its intended use. **16-12A-29.1**

MEDICAL SERVICES Ch 34-8A

- ***Loans and grants to individuals authorized--Unanimous vote required--Purpose.*** Notwithstanding any other provisions of law to the contrary, the board of county commissioners and/or the local governing body may, by unanimous vote of its members, grant, loan, or pay to an individual, upon such terms and on such conditions as the board shall set forth, moneys from any source of funds available to them for the purpose of ensuring the availability of professional medical services within the county. **34-8A-1**

MEMORIAL DAY Ch 7-8-24

- ***Memorial Day observance.*** The board of county commissioners may appropriate funds for the observance of Memorial Day each year. **7-8-24**

MENTAL ILLNESS BOARDS Ch 27A-7

- ***County board of mental illness--Composition and appointment of board--Qualifications of members--Joint boards--Alternates.*** In each county a magistrate judge or lawyer shall be appointed by the presiding circuit judge of the circuit in which the county is situated to serve as the chair of the county board of mental illness. Any board conducting commitment hearings shall consist of the chair and two other persons appointed by the board of county commissioners for a three-year term. The two members appointed by the county commission shall be residents of the county. The chair appointed by the presiding circuit judge need not be a resident of the county. The members of the board of mental illness who are appointed by the board of county commissioners may be appointed to more than one term but may not serve more than two consecutive three-year terms. The state's attorney for the county may not serve on the county board of mental illness. Each appointing authority shall also appoint alternates. Pursuant to chapter 1-24, two or more counties may jointly contract to establish a board of mental illness to serve all contracting counties. In such case, the county commissioners of the contracting counties shall jointly appoint the two board members referred to in this section. The members may be residents of any of the counties under joint contract. **27A-7-1**
- ***Training of board members.*** Each member of a board of mental illness shall participate in training as required by the Department of Social Services prior to undertaking their duties. The training shall include the duties, procedures, and rights of any person coming before the board of mental illness. **27A-7-9**

MENTALLY ILL PERSONS Ch 27A-11A&13

- ***Request by county to reopen hearing on question of residence--Time and place of hearing--Notice--Filing and mailing of ultimate finding--Payment of expenses.*** Within ten days of the auditor's receipt of the committing board's findings regarding the residence and summary of proofs thereon, the county, other than the referring county, in which residence was found to be may request the committing board of mental illness to reopen the hearing upon the question of the person's residence by mailing a request to the chair of the committing board of

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mental illness. Upon receipt of the request to reopen the commitment hearing, the committing board of mental illness shall, as soon as practicable, afford the county determined to be the person's county of residence an opportunity to appear before the board, at a time and place set by the board and not more than thirty days from the date of the request to reopen the hearing. Notice of the reopened hearing shall be given to the county where the person was found and to the county requesting the reopening of the hearing at least ten days prior to the reopened hearing by mailing notice thereof to the respective county auditors. Either county appearing at the reopened hearing may present any evidence it may have to establish that it is not the county of residence of the person. The board shall then determine, by a preponderance of evidence, the county of residence of the patient and either affirm or modify its prior finding. The ultimate finding of residence shall be filed with the clerk of courts of the committing county and the county of residence with copies mailed to the administrator of the center or other facility where the person is undergoing treatment. The referring county shall pay any expenses incurred by the committing board in conducting any reopened hearing, subject to reimbursement by the county ultimately proven to be the county of residence. No lien may be placed against the patient for the costs incurred in conducting any reopened hearing requested by county regarding the question of residence. **27A-11A-14**

- ***Administrator's report to county of patients discharged--Notice to county auditor.***

The administrator of the Human Services Center shall furnish at once to the chairman of the county board of mental illness of the county wherein the residence is found to be, the name of each patient under involuntary commitment that is discharged. The county auditor wherein the residence is found to be shall be notified at once of all patients on county billings who are discharged, who are on unauthorized leave, or who have died. **27A-13-25**

- ***Notice by county auditor and collection of charges from persons responsible--Notice of appeal procedure.*** The county auditor shall, upon receipt of a statement from the administrator of the Human Services Center requiring payment for the care of voluntary patients therein, enter the proper charge against the respective patients and notify those legally bound for the support of such patients, requiring them to pay the same, which payment shall be made to the county treasurer of the county in which such charge has been made and when such payment is made a receipt therefor in triplicate shall be issued and one copy of such receipt shall be filed with the county auditor, who shall give proper credit for the same. The notification by the county auditor to those legally bound for the support of such patients shall also include a summary of the procedure to appeal the amount they are charged as provided in § 27A-13-10. **27A-13-32**

MISSOURI RIVER DEVELOPMENT Ch 46A-15

- ***Improving navigation on Missouri river--Expenditure of funds by counties upon voter approval--Appropriations.*** The county commissioners of any county bordering the Missouri River may, upon an affirmative vote of the qualified voters of the county, expend money for the purpose of improving navigation on the river where the river borders the county. The funds shall be expended in conjunction with appropriations made by the United States government in proportionate amounts as may be agreed upon by the county board of commissioners and the chief of engineers of the United States Army for the purpose of aiding in the securing of a permanent navigable channel in the river. The funds shall be expended in accordance with plans conforming to the character and approved methods of improvement of the river as determined by the chief of engineers of the United States Army. The county commissioners may appropriate

moneys out of the general funds of the county available for county purposes to meet the expense of any such improvements. **46A-15-4**

MUNICIPALITIES

- ***Municipality contracting with county for services--Fees.*** Any governing body of a municipality may contract with the board for drainage expertise and services to be provided by the county. Such contract may provide that the municipality shall pay fees as are agreed upon for the services performed. **46A-10A-12**
- ***Joint county-municipal drainage activities.*** A contract between a governing body of a municipality and a board may provide for joint county-municipal drainage activities. **46A-10A-13**
- ***Donation of land to state or first or second class municipality for parks or recreation area.*** By unanimous vote of its members, a board of county commissioners may give, upon such terms and conditions as may be agreed to, any of its lands suitable for parks or recreation areas to the State of South Dakota or to first and second class municipalities in the manner provided by chapter 9-38 or chapter 41-2 for use as state parks, recreation areas, or city parks. **7-29-25**
- ***Acquisition of land and exchange with municipality.*** Any county of this state is hereby authorized and empowered to purchase property, with money from its general fund or otherwise, and thereafter to transfer and convey such property so purchased to any municipal corporation within or partly within the boundary of such county in exchange for property owned by such municipality, provided the property so transferred and conveyed to the county is for a public use and purpose. Said transfers of property shall be upon such terms and conditions as may be determined and agreed upon by the respective governing bodies thereof. **7-29-20**

MUSEUMS: Refer to → HISTORICAL MUSEUMS

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NAMES OF COUNTIES Ch 7-1

- ***Names and boundaries unchanged--Prima facie boundary descriptions.*** The names and boundaries of the several counties of this state shall be and remain as now fixed and determined, until changed in the manner provided by law. The following sections shall be deemed to show the boundaries of such counties correctly until the contrary is definitely established. **7-1-1**

- ***Names and boundaries. 7-1-2 to 7-1-68***

- ***Petition to change county name--Election--Ballot--Costs of name change paid by county.*** If not less than fifteen percent of the registered voters of any organized county in this state, based upon the total number of registered voters at the last preceding general election, shall on or before the first day of July in any general election year, file in the office of county auditor a petition requesting that the name of the county be changed, the county auditor shall at the next general election submit the question to the registered voters of the county on a separate printed ballot if using a hand counted paper ballot. The petition shall also authorize the county to appropriate and pay for all local government and state government costs associated with changing the name of the county. If the county uses an optical scan ballot, the question may be included on the general election ballot. The following question shall be submitted to the voters:

Shall the name of this county be changed to _____ and county funds be appropriated to pay for all local government and state government costs associated with the name change?

_____ Yes

_____ No

All voters in favor of changing the name of the county and paying for all the local government and state government costs associated with the name change shall place either a cross or check mark in the square before the word Yes on the ballot. All voters who do not favor changing the name of the county and paying for all the local government and state government costs associated with the name change shall place either a cross or check mark in the square before the word No on the ballot. All local government and state government costs associated with changing the name of the county shall be paid by the county from county funds appropriated for that purpose before the change of the name of the county shall be effective. **7-1-69**

- ***Certification of name change vote result.*** If a two-thirds majority of the votes cast at an election held pursuant to § 7-1-69 are in favor of changing the name of the county, the county auditor shall within ten days after the canvass of the vote, certify under the seal of the county auditor's office to the secretary of state, the result of the canvass of the votes cast at the election, and the new name of the county. **7-1-70**

- ***Proclamation of new county name.*** Upon the certification made by the county auditor pursuant to § 7-1-70, the secretary of state shall publicly proclaim the result of the election held pursuant to § 7-1-69 and the new name of the county. The new name of the county shall be in full force and effect on the first day of July in the year following the election held pursuant to § 7-1-70. **7-1-72**

- ***Name and county seat of consolidated county.*** Any new county formed pursuant to this chapter shall take the name of the senior county and the location receiving the highest number of votes, cast at such election in the two or more counties for the county seat of the consolidated county, shall be the county seat of such new county. **7-2-7**

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- ***Voters' approval of division--Name and organization of new county.*** If a majority of the votes cast at the next general election in such county, and also in each portion thereof proposed to be organized into a new county, shall be favorable to a division of such county, the portion in which the county seat thereof is located shall retain the name and organization of such county and the portion or portions in which the county seat is not located shall take the name or names prayed for in the petition for the division of the county, and the Governor shall forthwith proceed to organize the same as a county or counties under such name or names in the manner provided by law for organizing an unorganized county and, until such organization is perfected, the said portion or portions of such county shall for all governmental purposes remain and be a portion of such original county. **7-3-2**

NATIONAL FORESTS

- ***Exchange of national forest lands with United States--Notice.*** The various counties of this state are hereby empowered to take advantage of the act of Congress of March 20, 1922, (42 U.S. Stat., 465) and acts amendatory thereto, relating to the consolidation of national forests, and for that purpose the board of county commissioners of any county shall have authority to sell or otherwise dispose of lands acquired by such county through tax sale proceedings located within the boundaries of any forest or within five miles of the boundaries of any national forest which are chiefly valuable for national forest purposes, to the United States Government, at private sale at such price and upon such terms and conditions as the said board of county commissioners may deem advisable and to the best interests of the county. Before any such sale or transfer is effected, notice of such contemplated sale or transfer shall be given as required by the said acts of Congress and such notice shall be in lieu of any notice required by the laws of this state relating to the sale of such lands. **7-29-16**
- ***Reservation of mineral rights in national forest exchanges.*** All mineral rights to such lands sold and conveyed to the United States Government pursuant to § 7-29-16 shall be reserved to the county, and such deeds of conveyances shall provide therein that any and all mineral rights in and to said lands are expressly reserved to the county. **7-29-17**
- ***Distribution to counties of federal payments from Black Hills National Forest.*** All money received from the forest service of the United States under the Agricultural Act approved June 30, 1906, as receipts from the Black Hills National Forest, shall be distributed annually to the counties of Lawrence, Meade, Pennington, Custer, and Fall River, for the benefit of the public roads and public schools of such counties, in proportion to the area of such Black Hills National Forest in each county. **41-16-11**

NEWSPAPERS Ch 17-2

- ***Publication in adjoining county if no legal newspaper published in county.*** Whenever publication of any kind of order or notice is required in a newspaper in a county and there is no legal newspaper published in such county at the time publication begins, and there is no specific provision as to how such publication shall in that event be made, it shall be sufficient if the publication is made in a newspaper published in an adjoining county. **17-2-10**
- ***Publication in existing legal newspapers if not enough legal newspapers published in county.*** Where publication is required in more than one newspaper in any municipality, county, or other district, and the required number of legal newspapers are not being published in such municipality, county, or other district at the time publication begins, publication in such

newspaper or newspapers, as are actually being published in such municipality, county, or other district at the time publication begins, shall be sufficient. **17-2-12**

- ***Time allowed for publication of proceedings and reports of political subdivisions.***

It shall be the duty of publishers of official newspapers to cause publication of minutes of proceedings and reports required to be published by counties, municipal corporations and school districts to be made within ten days after receipt thereof. A publication made subsequent to such time shall not be deemed invalid but the publisher may thereby forfeit his right to payment therefor.

17-2-18.1

- ***Designation of official newspapers for county--Publication of board proceedings and notices.*** At its regular meeting in January of each year the board of county commissioners shall designate three legal newspapers printed in the county as official newspapers. If there are not three legal newspapers within the county, then as many newspapers that are legal newspapers. No more than two newspapers within the same municipality may be designated as official newspapers by the county, if there are other legal newspapers published elsewhere within the county. The board shall publish a full and complete report of all its official proceedings at all regular and special meetings and shall publish proceedings as soon after any meeting as practicable. The board shall pay for publishing the proceedings at a rate not to exceed ninety percent of the legal line rates for weekly newspapers and not to exceed the legal line rate for daily newspapers, as provided in chapter 17-2. All notices required by law to be published by the county auditor shall also be published in the official newspapers. If any notice includes a legal description of property outside the incorporated limits of a municipality, the notice may include a physical description of the property from the nearest incorporated municipality. **7-18-3**

- ***Report of commissioners' proceedings to be sent to official newspapers.*** The county auditor shall make a full and complete report of the proceedings of each regular and special meeting of the board and send a copy to the official newspapers. The report shall be sent within one week from the time each meeting is held. **7-18-5**

NONPROFIT CORPORATIONS

- ***Expenditures for industrial, tourist and recreational activities to nonprofit corporations or associations--Reports required--Inspection of books and records.*** The board of county commissioners may promote industrial, tourist, and recreational activities and make payment from the general fund to nonprofit corporations or associations engaged in promotion either within or outside of the boundaries of the county. Any nonprofit corporation or association which accepts funds from a board of county commissioners, shall file an annual report of all receipts and expenditures with the county auditor not later than December thirty-first of each year. All books and records of the nonprofit corporation or association may be inspected by any member of the board of county commissioners, or by any agent or attorney representing the board, for any proper purpose at any reasonable time. **7-18-12**

- ***Donation of property to nonprofit corporations.*** By unanimous vote of its members, a board of county commissioners may give, lease or convey, upon such terms and on such conditions as the board shall set forth, personal and real property to corporations organized under chapter 47-22, if the property is to be used exclusively by such corporation for one or more of the purposes specified in § 47-22-4. **7-29-26**

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NUISANCES

- ***Declaration and abatement of nuisances by county.*** The board of county commissioners of every county may, by ordinance, allow for the declaration and abatement of a public nuisance within the county outside the corporate limits of any municipality. For purposes of this section only, the feeding, breeding, or raising of livestock or the operations of a livestock sales barn, is not presumed, by that fact alone, to be a nuisance. **7-8-33**
- ***Drain or watercourse constructed to prevent entry of water as nuisance--Exception.*** Any ditch, drain, or watercourse constructed to prevent surface and overflow water from adjacent land from entering it is hereby declared a nuisance and may be abated as such unless such action was taken in accordance with the provisions of this chapter and chapter 46A-11 and the principles outlined in § 46A-10A-20. **46A-10A-91**

NURSES Ch 34-4

- ***Employment of nursing personnel by county commissioners.*** The board of county commissioners of any county may at any time when in their judgment and discretion the public health and interests of such county will be benefited thereby, employ nursing personnel as defined in chapter 36-9. **34-4-5**

OATHS Ch 7-7

- ***Officers authorized to administer oaths.*** The following officers may administer oaths:
 - (1) Supreme Court justices, circuit judges, magistrates, notaries public, the clerk and deputy clerk of the Supreme Court, and clerks and deputy clerks of the circuit court, within the state, and federal judges, and federal magistrates;
 - (2) Members of the Legislature, while acting as a member of any legislative committee, when examining persons before the legislative committee;
 - (3) The county auditor, the county treasurer, the register of deeds, and the deputy of each, within their respective county;
 - (4) Mayors, town board presidents, municipal finance officers, deputy municipal finance officers, and township clerks, within their respective municipality or township;
 - (5) Sheriffs and deputies if authorized by law to select commissioners or appraisers, or to impanel juries for the view or appraisal of property, or are directed as an official duty to have property appraised, or take the answer of garnishees;
 - (6) Conservation officers for the purposes of taking a written statement pursuant to § 23A-2-1 for any offense of Title 41; and
 - (7) Other officers in cases specifically provided by law. **18-3-1**
- ***Appointment and removal of deputies and clerks--Oath of office and bond.*** The officer in whose office a deputy or clerk is employed may appoint or remove a deputy or clerk at pleasure. The appointment or removal shall be by a certificate in writing, and any deputy or clerk appointed shall before entering upon the duties of office, take and subscribe the oath or affirmation required by the Constitution. The oath or affirmation shall be endorsed on the certificate of appointment and filed as provided by law. The deputy or clerk shall furnish an official bond in an amount and with surety as the principal deems proper. The bond shall be attached to the certificate of appointment and oath of office. **7-7-21**

OBSCENITY AND PUBLIC INDECENCY Ch 22-4

- ***County or municipal ordinance establishing contemporary community standards test.*** Any county or municipality may provide, by ordinance, for a contemporary community standards test to regulate the sale, distribution, and use of obscene material and to regulate obscene live conduct in any commercial establishment or public place within its jurisdiction. **22-24-25.1**
- ***Municipal and county power to regulate obscene materials or obscene live conduct not preempted.*** Except as provided in § 22-24-37, nothing contained in this chapter limits any county or municipality from regulating obscene material or obscene live conduct within its jurisdiction. **22-24-25**

OFFICERS Ch 15-21 & 7-7

- ***Amount of amercement on refusal to pay over money collected.*** When the cause of amercement is for refusing to pay over money collected as provided in § 15-21-1 or 15-21-2 the sheriff or other officer shall not be amerced in a greater sum than the amount so withheld with ten percent thereon. **15-21-4**
- ***County officers to be elected quadrennially--Staggered terms--Expiration of term for combined offices.*** Unless otherwise provided by county charter, at primary and general elections there shall be nominated and elected in each organized county of this state county officers as

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follows:

(1) In 1974 and each fourth year thereafter, a sheriff, county auditor, and register of deeds;

(2) In 1976 and each fourth year thereafter, a treasurer, state's attorney, and coroner. The terms of all such officers shall be four years, or until their successors have been duly elected and qualified. Nevertheless, the term of any county office, combined with another pursuant to § 7-7-1.2 or 7-7-1.3, shall expire on the first Monday of January following the ordinance authorizing the combination. **7-7-1.1**

- ***Commencement of terms of county officers--Vacancy occurring before commencement of term.*** Except when otherwise expressly provided, the regular term of office for all county officers, when elected for a full term, shall commence on the first Monday in January next succeeding their election, except the office of county auditor, the term of which shall begin on the first Monday of March next succeeding his election. If the office to which any officer was elected be vacant at the time of his election, or becomes vacant after such election, even if he was not elected to fill a vacancy, he shall forthwith qualify and enter upon the duties of his office. **7-7-1**

- ***Hours of operation for county offices established by board of county commissioners--Exceptions.*** The board of county commissioners shall, by resolution, establish the hours of operation for each county government office, except for the offices of the sheriff and state's attorney. The county auditor's office shall remain open, if requested by the person in charge of a school or municipal election, until the closing of the polls and the tabulation of votes for that election. **7-7-2**

- ***Combining county offices.*** The board of county commissioners may, by ordinance, combine two or more county offices and that one person shall be elected to, and perform the duties of, the combined offices. **7-7-1.2**

- ***Ordinance combining with other counties a county office.*** Notwithstanding the provisions of § 7-7-1.1, the board of county commissioners may by ordinance combine with one or more other counties a county office. That person shall be elected to and perform the duties of the combined offices. **7-7-1.8**

- ***Petition for consolidation or boundary change--Filing with county auditors--Submission to vote.*** If fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, of each of two or more adjoining counties of this state, petition the board of county commissioners of their respective counties for an election to determine the question of changing the boundary lines or of the consolidation of two or more counties, stating in such petition the names of the counties to be consolidated or boundary lines to be changed, such boards of county commissioners shall at their regular July meeting succeeding the presentation of such petitions provide that the question of consolidation of the counties or the changing of the boundary lines of such counties shall be submitted to a vote at the next general election succeeding the presentation of such petitions. The petitions shall be filed with the county auditors of such counties prior to the first day of the regular July meeting of the board of county commissioners. The auditor of each county where any such petition has been filed shall transmit to the auditor of the other county or counties affected thereby a certified copy or copies of the petition or petitions filed in his county. **7-2-1**

- ***Majority approval of consolidation or boundary change.*** If at any election held under the provisions of this chapter, a majority of all the votes cast at such election in each of such counties shall be in favor of consolidation of two or more counties or the changing of the

boundary lines of such counties, they shall be declared consolidated or changed as hereinafter provided. **7-2-3**

- ***Name and county seat of consolidated county.*** Any new county formed pursuant to this chapter shall take the name of the senior county and the location receiving the highest number of votes, cast at such election in the two or more counties for the county seat of the consolidated county, shall be the county seat of such new county. **7-2-7**

- ***Coroners: Refer to → CORONERS***

- ***Auditors: Refer to → AUDITORS***

- ***Constables: Refer to → CONSTABLE***

- ***Treasurers: Refer to → TREASURERS***

- ***(Deputies and Clerks): Authorization for employment of deputies and clerks--Payment of compensation.*** If in the judgment of the board of county commissioners it shall be deemed necessary for the prompt and accurate dispatch of business in the office of the county treasurer, county auditor, county coroner, or register of deeds that deputies or clerks be employed therein, it shall by resolution fix the number of deputies or clerks to be employed, the time of employment, and compensation which they shall receive. Such compensation shall be paid monthly by warrant on the general fund. **7-7-20**

- ***Powers of deputies--Responsibility of elected officer.*** Such deputies are authorized to sign all papers and do all other things which the officers themselves may do respectively, and the respective officers shall be responsible for the acts of their respective deputies. **7-7-22**

- ***Life and health insurance contracts for county officers and employees.*** The board of county commissioners may enter into group life and group health insurance contracts for the protection and benefit of its officers and employees, and their immediate families. The board may pay all or part of the necessary premiums for its officers and employees and for the immediate families of those officers and employees. **7-8-26.1**

- ***Health self-insurance plan for county officers and employees.*** A board of county commissioners may elect to provide group health insurance for its officers and employees and their immediate families under a plan of self-insurance in whole or in part. Any county self-insuring pursuant to this section shall purchase sufficient stop loss insurance and maintain sufficient reserves to ensure the availability of funds for the payment of benefits provided under the self-funded plan. **7-8-26.2**

- ***Meetings of county officials for advancement of county government--Authorization.*** County commissioners, county highway superintendents, county auditors, county treasurers, registers of deeds, state's attorneys, sheriffs, county assessing officers, and county coroners are hereby authorized to attend educational conferences, meetings, and conventions held and conducted within or without the State of South Dakota pertaining to the betterment and advancement of county government as authorized by resolution of the board of county commissioners. **7-7-25**

- ***Prior authorization required for reimbursement of expenses for attending meetings--Vouchers for payment.*** No charge for expenses in attending any such meetings shall be a charge against the county unless authorized and approved by the county commissioners prior to convening of any such meeting. Upon the actual attendance at such meetings, conferences, or conventions, all county officers as designated in § 7-7-25 shall be paid their actual necessary expenses on duly executed vouchers submitted to the board. **7-7-26**

- ***Public Defenders: Refer to → PUBLIC DEFENDER***

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- ***Register Of Deeds: Refer to → REGISTER OF DEEDS***
 - ***Rental space provided county officers where courthouse or jail insufficient.*** In any county where there is no courthouse or jail erected by the county, or no lodging for prisoners provided under a joint agreement pursuant to § 24-11-4, or where those erected have not sufficient capacity, it shall be the duty of the board of county commissioners to provide for courtroom, jail, and offices for the following named officers: sheriff, treasurer, register of deeds, state's attorney, auditor, clerk of courts, and circuit court judge for the county, to be furnished by such county in a suitable building or buildings for the lowest rent to be obtained at the county seat, or to secure and occupy suitable rooms at a free rent within the limits of the county seat or any of the additions thereto until such county builds a courthouse. **7-25-17**
 - ***Settlement by county officers for funds received--Payment into treasury.*** All treasurers, sheriffs, clerks, constables, and other officers chargeable with money belonging to any county shall render their accounts to and settle with the board of county commissioners at the time required by law and pay into the county treasury any balance which may be due the county, take duplicate receipts therefor, and deposit one of the same with the county auditor within five days thereafter. **7-23-6**
 - ***Sheriffs: Refer to → SHERIFF***
 - ***State's Attorney: Refer to → STATE'S ATTORNEY***
 - ***(Water Project Districts) - Services provided without charge to district.*** All county officials shall perform the services outlined in this chapter free of charge to the district. The services of the Board of Water and Natural Resources, as provided in this chapter, also shall be free of charge to the district. **46A-18-69**
 - ***(Watershed Districts) - Resolution dissolving district--Filing.*** Upon notification by the district directors of a vote to dissolve the district, the Board of Water and Natural Resources shall by resolution dissolve the water project district and shall file a copy of the resolution with the secretary of state. **46A-18-76**
- Optional form of county government **Ch 7-8A**
- ***Adoption of optional form of government.*** The electors of any county may adopt a board of county commissioners-appointed manager form of county government provided for by this chapter. **7-8A-1**
 - ***Board as governing body--Election.*** In each county adopting an optional form of county government, the board of county commissioners shall be the governing body of the county and shall exercise all powers authorized by law and the State Constitution applicable to counties except as otherwise provided by this chapter. The board shall be elected in the same manner as provided by chapter 7-8. **7-8A-2**
 - ***County manager--Duties and qualifications.*** The board of county commissioners-appointed manager form of government shall be that form in which the chief administrative officer is the county manager. The county manager shall be the administrative head of the county and is responsible for the proper administration of the affairs of county government. The county manager shall be appointed solely on the basis of his training, experience, and administrative qualifications and need not be a resident of the county. He shall serve at the pleasure of the board at a salary set by the board. **7-8A-3**
 - ***Appointment of county manager.*** The board of county commissioners may appoint any county officer or employee to be the county manager by reason of training, experience, and administrative qualifications. If any county officer or employee is appointed county manager, the

officer or employee shall resign the office or position and terminate office responsibilities before assuming the office of county manager. **7-8A-4**

ORDINANCES Ch 7-18A

- ***Authority to enact, amend, and repeal ordinances and resolutions--Penalties for violation.*** Each county may enact, amend, and repeal such ordinances and resolutions as may be proper and necessary to carry into effect the powers granted to it by law and provide for the enforcement of each violation of any ordinance by means of any or all of the following:
 - (1) A fine not to exceed the fine established by subdivision 22-6-2(2) for each violation, or by imprisonment for a period not to exceed thirty days for each violation, or by both the fine and imprisonment; or
 - (2) An action for civil injunctive relief, pursuant to chapter 21-8. **7-18A-2**
- ***Reading, signing, filing, and publication required.*** The title of all ordinances shall be read twice with at least five days intervening between the first and second reading. Any ordinance shall be signed by the chairman of the board or the acting chairman, filed with the county auditor and published once. However, an ordinance incorporating and adopting comprehensive regulations or a code promulgated, approved, and published by a recognized and established national organization prescribing building, electrical, plumbing, safety, fire, or health regulations need not be published in a newspaper, but, upon adoption of such an ordinance, the auditor shall publish a notice of the fact of adoption once a week for two successive weeks. **7-18A-5**
- ***Effective date of ordinances and resolutions--Exceptions.*** Except such resolutions or ordinances as may be necessary for the immediate preservation of the public peace, health, or safety, or support of the county government and its existing public institutions; which provide for an election or hearing on an improvement or assessment; or which call for bids which take effect upon the passage and publication thereof, every resolution or ordinance passed by a board shall take effect on the twentieth day after its completed publication unless suspended by operation of a referendum. **7-18A-8**
- ***Initiated measures--Number of voters required.*** The right to propose ordinances and resolutions for the government of a county shall rest with five percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election. **7-18A-9**
- ***Majority vote required for approval of initiated measure--Effective date.*** No initiated ordinance or resolution is effective unless approved by a majority of the votes cast for and against the ordinance or resolution. If approved, the ordinance or resolution takes effect upon the completion of the canvass of the election returns. **7-18A-14**
- ***Referendum petition--Number of signatures required--Emergency measures excepted.*** Any ordinance or resolution adopted by a board of county commissioners may be referred to a vote of the qualified voters of the county by the filing of a petition signed by five percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election, except such ordinances and resolutions as may be necessary for the immediate preservation of the public peace, health, or safety, or for the support of the county government and its existing public institutions. **7-18A-15**
- ***Waiting period before second vote on initiated or referred question.*** No question contained in a referred or initiated ordinance or resolution may be voted upon again within one year from the date of the election thereon. **7-18A-24**

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- ***Firearms regulation ordinances prohibited.*** No county may pass any ordinance that restricts possession, transportation, sale, transfer, ownership, manufacture, or repair of firearms or ammunition or their components. Any ordinances prohibited by this section are null and void. **7-18A-36**
- ***Control of drainage construction, rehabilitation, or methods--Approval of board.*** Any board or commission may adopt drainage ordinances, resolutions, or regulations to control individual drainage construction or rehabilitation or such drainage methods by groups of landowners within the county. Such ordinances, resolutions, or regulations shall be consistent with the principles outlined in § 46A-10A-20. Any drainage ordinances, resolutions, or regulations adopted by a commission shall further be approved by the board before going into effect. **46A-10A-46**
- ***Ordinances to prevent deterioration by neglect--Misdemeanor.*** The governing body of any county or municipality may enact an ordinance to prevent the deterioration by intentional neglect of any designated historic property or any property within an established historic district. Any property owner violating an ordinance established pursuant to this section shall be guilty of a Class 2 misdemeanor. Each day that a violation continues to exist shall constitute a separate offense. **1-19B-52**

PARKS - (COUNTY) - Ch 41-18

- ***County parks and bodies of water as public purpose--Acquisition of property, borrowing, expenditure of general funds and issuance of bonds authorized.*** The acquiring, improving, and maintaining of public parks and the creation and maintaining of bodies of water by counties is declared to be a public purpose. The commissioners of the several counties may acquire for this purpose by gift, purchase, or condemnation, property within their respective counties, as provided in this chapter, and create bodies of water and borrow money to pay the expense for this purpose, subject to the limitation fixed in § 41-18-12, out of the general fund or to issue the bonds of the county as provided in § 41-18-6. **41-18-1**
- ***Acquisition of park property--Payment from county general fund.*** The board of county commissioners may acquire and condemn private property within the county for the uses and purposes of public parks and bodies of water in the county if and to the extent that the property is deemed necessary for such purposes. The board may pay for all property acquired and all property damaged, and the expense of creating bodies of water on the property, out of any money in the county general fund within the limitations fixed in § 41-18-12. **41-18-11**
- ***Maximum payment for property acquisition.*** Except as provided in § 41-18-13 the board of county commissioners, in acquiring the property for any one park or project and creating bodies of water in the park or project under the provisions of this chapter, may not expend a total amount exceeding one dollar per thousand dollars of taxable valuation on the taxable valuation of the property in the county for the preceding year. **41-18-12**
- ***Survey and subdivision of waterfront lots before sale--Restrictions on use of lots.*** If the board of county commissioners decides to sell any lots or tracts surrounding any such body of water or adjoining any portion of the body of water, the commissioners shall first cause the land to be surveyed and platted into lots and blocks and streets or drives. The board of county commissioners may place such restrictions as to the use of the lots or tracts as the board may deem advisable. **41-18-19**
- ***Improvement and maintenance of county parks--Payment of expense.*** The county commissioners shall have charge of the improvement and maintenance of public parks established pursuant to this chapter, the expense thereof to be paid on their order by warrants upon the park fund. **41-18-24**
- ***Outdoor recreation grants. Agreements with federal agencies.*** Any county of this state may, through its board of commissioners, enter into agreements with and receive grants from federal agencies. **7-18-10**
- ***Operation of system authorized--Acquisition and maintenance of land and facilities.*** Any county, municipality, or school district may operate a system of public recreation and playgrounds, and for such purpose may acquire, equip, and maintain land, buildings, or other recreational facilities, and expend its funds therefor. **42-2-1**
- ***County appropriation to support activities of the elderly.*** The board of county commissioners may appropriate from the county general fund to promote, establish, and maintain recreational, educational, and other activities for the elderly. **42-2-6**
- ***Cooperation by counties and municipalities in development and maintenance of parks and recreation areas.*** The boards of county commissioners of the several counties of this state or the governing body of any municipality therein may cooperate with the Department of Game, Fish and Parks, or with each other, in the acquisition, development, and maintenance of parks and recreation areas within their respective counties or adjacent to their respective municipalities,

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and are hereby empowered to purchase land, equipment, and materials and to hire services and labor in order to effectuate such cooperation. **42-2-10**

- ***County and municipal appropriations for cooperative parks and recreation areas--Maximum amount.*** For the purpose of carrying out the provisions of § 42-2-10, the board of county commissioners or the municipal governing body may appropriate out of their general fund a sum not to exceed five thousand dollars per year. **42-2-11**

- ***Donation of land to state or first or second class municipality for parks or recreation area.*** By unanimous vote of its members, a board of county commissioners may give, upon such terms and conditions as may be agreed to, any of its lands suitable for parks or recreation areas to the State of South Dakota or to first and second class municipalities in the manner provided by chapter 9-38 or chapter 41-2 for use as state parks, recreation areas, or city parks. **7-29-25**

PAROLE Ch 24-15

- ***Reimbursement of county for expenses incurred in detention of parole violator.*** The state shall reimburse any county of this state for expenses the county incurs for the detention of a parolee pursuant to §§ 24-15-19 and 24-15-21. The reimbursement may not exceed seventy dollars per day. Upon receipt of the bill, the state shall make reimbursement within thirty days. No county may be reimbursed by the state for costs incurred from detaining a parolee held for criminal charges unrelated to the parolee's current conviction and sentence. **24-15-28**

- ***Voucher to claim reimbursement for county's expenses in detaining parole violator--Limit on amount.*** In order to obtain reimbursement pursuant to § 24-15-28, the chair of the board of county commissioners of the county shall present a claim on a voucher to be approved by the secretary of corrections for detention expenses paid by the county, not to exceed seventy dollars per day. When the voucher is presented to the state auditor, the state auditor shall examine it and if the claim is just and valid, the state auditor shall issue a warrant for payment to be made from funds appropriated for that purpose, and the state treasurer shall then pay the sum to the treasurer of the county. **24-15-29**

PAWNBROKERS - PEDDLERS

- ***Authority of county commissioners to regulate hawkers, peddlers, pawnbrokers, ticket scalpers or employment agencies.*** Each board of county commissioners may license, tax, regulate, or prohibit any hawkers, peddlers, pawnbrokers, ticket scalpers, or employment agencies not otherwise licensed, taxed, regulated, or prohibited pursuant to § 9-34-8. **7-18-29**

- ***Local regulation of peddling and soliciting.*** Any county or municipality may regulate door-to-door sales, peddlers and solicitors. **9-34-18**

PEST CONTROL: Refer to → WEED AND PEST CONTROL

PETITIONS

- ***Petition for consolidation or boundary change--Filing with county auditors--Submission to vote.*** If fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, of each of two or more adjoining counties of this state, petition the board of county commissioners of their respective counties for an election to determine the question of changing the boundary lines or of the consolidation of two or more counties, stating in such petition the names of the counties to be consolidated or boundary lines to be changed, such boards of county commissioners shall at their regular July meeting succeeding the presentation

of such petitions provide that the question of consolidation of the counties or the changing of the boundary lines of such counties shall be submitted to a vote at the next general election succeeding the presentation of such petitions. The petitions shall be filed with the county auditors of such counties prior to the first day of the regular July meeting of the board of county commissioners. The auditor of each county where any such petition has been filed shall transmit to the auditor of the other county or counties affected thereby a certified copy or copies of the petition or petitions filed in his county. **7-2-1**

- ***Change in number of commissioners--Petition and submission at election.*** The number of county commissioners of any county may be increased to five or seven or reduced to five or three. If fifteen percent of the registered voters of the county, based upon the total number of registered voters at the last preceding general election, petition the board of county commissioners for an increase or decrease in the number of county commissioners, the board shall submit the question to a vote of the voters of the county at the next general election. Notice of the submission of such question shall be given in the notice of the general election. **7-8-3**

- ***Petition and election on change of county seat--Publication of notice.*** If fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, of any organized county petition the board of county commissioners to change the location of the county seat which has once been located by majority vote, specifying the place to which it is to be changed, the board shall submit the same to the people of the county at the next general election. Notice of the submission of the question shall be included in the notice published once by the county auditor giving notice of the time and place of holding the general election. **7-6-4**

- ***Petition and election on abolishment of county organization--Form of ballot.*** Whenever not less than fifteen percent of the registered voters of any organized county in this state, based upon the total number of registered voters at the last preceding general election, shall on or before the first day of July in any general election year, file in the office of the county auditor a petition requesting that the organization of such county be dissolved and that it thereafter be and become an unorganized county, the county auditor shall at the next regular election, submit to the legal voters of said county on a separate printed ballot the following question:

Shall the county organization of _____ county be abolished?

☐ Yes

☐ No

All voters in favor of abolishing such county organization shall place either a cross (x) or check mark (.) in the square before the word Yes on the ballot. All voters who do not favor the abolishment of such county organization shall place either a cross (x) or check mark (.) in the square before the word No on the ballot. **7-5-1**

- ***Petition for division of county--Contents and filing--Minimum size of new county.*** If fifteen percent of the registered voters, based upon the total number of registered voters at the last preceding general election, residing in any portion consisting of not less than twenty-four congressional townships or any portion consisting of not less than one hundred million dollars of real property valuation of any organized county in this state shall petition the county commissioners of such county for division thereof and for the organization of a new county or counties, setting forth in the petition the lines upon which the petitioners desire such county to be divided and the boundaries of the proposed new county or counties, together with the name or names they desire to be given the proposed new county or counties in which such petitioners reside, the county commissioners of such county shall submit the question of the division of

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such county to the voters thereof at the next general election. Such petition must be filed with the county auditor not later than the first Monday in July of any general election year. Each county shall, after division as prayed for in such petition, contain not less than twenty-four congressional townships or not less than one hundred million dollars of real property valuation, or no election may be ordered. **7-3-1**

- ***Initiative petition--Form and contents.*** The right to propose an ordinance or resolution shall be exercised by filing with the auditor a petition in proper form containing the proposed ordinance or resolution, signed by the required number of qualified voters of the county. The signer or circulator of the petition shall add the signer's place of residence and the month and day of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. **7-18A-11**

- ***Board action on initiative petition--Submission to voters.*** If a petition to initiate is filed with the auditor, the auditor shall present it to the board of county commissioners at its next regular or special meeting. The board shall enact the proposed ordinance or resolution and shall submit it to a vote of the voters in the manner prescribed for a referendum within sixty days after the final enactment. However, if the petition is filed within three months prior to the primary or general election, the ordinance or resolution may be submitted at the primary or general election. **7-18A-13**

- ***Initiated measures--Number of voters required.*** The right to propose ordinances and resolutions for the government of a county shall rest with five percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election. **7-18A-9**

- ***Petition by individual landowner for change in zoning--Notice to abutting and adjoining landowners--Notice to county auditor of adjacent county.*** An individual landowner may petition the board to change the zoning of all or any part of the landowner's property. The petitioning landowner shall notify abutting and adjoining landowners by registered or certified mail of the petitioned zoning change at least ten days before the public hearing is held on the matter by the planning commission. The landowner shall use information provided by the county director of equalization to determine the abutting and adjoining land owners. Property is considered as abutting and adjoining even though it may be separated from the property of the petitioner by a public road or highway. If the affected property abuts, adjoins, or is within one mile of a county border, the county auditor on behalf of the individual landowner shall also notify, by registered or certified mail, the county auditor in the adjoining county of the petitioned zoning change at least ten days before the public hearing is held on the matter by the planning commission. **11-2-28.1**

- ***Referendum petition--Number of signatures required--Emergency measures excepted.*** Any ordinance or resolution adopted by a board of county commissioners may be referred to a vote of the qualified voters of the county by the filing of a petition signed by five percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election, except such ordinances and resolutions as may be necessary for the immediate preservation of the public peace, health, or safety, or for the support of the county government and its existing public institutions. **7-18A-15**

- ***Description in petition of referred matters.*** If the matter intended to be covered by a referendum petition is the whole of any ordinance or resolution, the petition shall contain the title of such ordinance or the subject of such resolution, and the date of its passage, but if only

a portion of such ordinance or resolution is intended to be covered by the petition, such portion shall be set out at length. **7-18A-17**

- **Signature requirements for referendum petition--Verification.** Voters signing a referendum petition shall comply with the requirements of § 7-18A-11, and it shall be verified in accordance with § 7-18A-12. **7-18A-18**

- **Time of filing referendum petition--Submission to voters required.** A petition to refer an ordinance or resolution subject to referendum may be filed with the auditor within twenty days after publication of the ordinance or resolution in the last to publish official county newspaper. The filing of the petition requires the submission of the ordinance or resolution to a vote of the qualified voters of the county for rejection or approval of the ordinance or resolution. **7-18A-16**

PLANNING AND ZONING Ch 11-2

- **Appointment of county planning commission--Number of members--Acting as zoning commission.** The board of county commissioners of each county in the state may appoint a commission of five or more members to be known as the county planning commission. If a county proposes to enact or implement any purpose set forth in this chapter then the board of county commissioners shall appoint a county planning commission. The total membership of the county planning commission shall always be an uneven number and at least one member shall be a member of the board of county commissioners. The county planning commission is also the county zoning commission. **11-2-2**

- **Joint Planning by Counties--Sharing of Expenses--Objectives of Joint Planning.** The boards of two or more county commissioners may direct their planning commissions to plan jointly. Expenses incurred in connection with joint planning, including but not limited to contracted services, shall be shared equitably among the counties involved. Encouraging regional economic development, including but not limited to the creation of compatible controls in neighboring counties, shall be the objective of joint planning. **11-2-5**

- **Contracts To Provide Planning and Zoning Services to Municipalities--Municipal Powers Exercised by County Board.** The governing body of any municipality may contract with the board for planning and zoning services to be provided by the county, and the contract may provide that the municipality shall pay such fees as are agreed for the services performed. Under the provisions of the contract the municipal governing body may authorize the county planning and zoning commission, on behalf of the municipality, to exercise any of the powers otherwise granted to municipal planning and zoning commissions under chapters 11-4 and 11-6. **11-2-7**

- **Preparation Of Comprehensive County Plan and Official Controls--Municipalities Included.** The county planning commission may prepare, or cause to be prepared, a comprehensive plan for the county including those municipalities within the county which are either unincorporated or which have requested by resolution of the governing board of such municipality to be included. **11-2-11**

- **Publication of Notice of Hearing.** After receiving the recommendation of the planning commission the board shall hold at least one public hearing on the respective comprehensive plan, zoning ordinance, or subdivision ordinance. Notice of the time and place of the hearings shall be given once at least ten days in advance by publication in a legal newspaper of the county. **11-2-19**

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- ***Action Upon Comprehensive Plan by Resolution or Ordinance--Majority Vote of Board Required.*** Based on the results of the hearing or hearings, the action upon the comprehensive plan shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the board. Based on the results of the hearing or hearings, the action upon the zoning regulations and the subdivision regulations shall be by ordinance carried by the affirmative votes of not less than a majority of all the members of the board. **11-2-20**
- ***Filing Of Board Action Adopting Comprehensive Plan--Publication of Notice of Fact of Adoption--Public Inspection.*** The action of the board on the plan shall be filed with the county auditor. A notice of fact of the adoption shall be published once in a legal newspaper of the county and take effect on the twentieth day after its publication unless the referendum is invoked. Any notice of fact of adoption published under the provisions of this chapter shall contain a notification that the public may inspect the entire comprehensive plan at the office of the county auditor during regular business hours. If such a zoning or subdivision ordinance is adopted, the ordinance is subject to the provisions of § 7-18A-5 as a comprehensive regulation unless the referendum is invoked. **11-2-21**
- ***Referendum On Comprehensive Plan, Zoning Ordinance, Or Subdivision Ordinance--Land Uses Suspended Until Referendum Completed.*** The comprehensive plan, zoning ordinance, and subdivision ordinance may be referred to a vote of the qualified voters of the county pursuant to §§ 7-18A-15 to 7-18A-24, inclusive. The effective date of the comprehensive plan, zoning ordinance, or subdivision ordinance on which a referendum is to be held shall be suspended by the filing of a referendum petition until the referendum process is completed. However, if a comprehensive plan, zoning ordinance, or subdivision ordinance is referred to a referendum vote, no land uses that are inconsistent with the plan or ordinance may be established between the time of adoption of the resolution or ordinance by the board, as provided in § 11-2-20, and the time of the referendum vote. **11-2-22**
- ***Enforcement Provided by County Commissioners.*** The board shall provide for the enforcement of the provisions of this chapter and of ordinances, resolutions, and regulations made thereunder, and may impose enforcement duties on any officer, department, agency, or employee of the county. **11-2-25**
- ***Changes In Comprehensive County Plan--Initiation by Board or Petition of Landowners.*** The plan, ordinances, restrictions, and boundaries adopted pursuant to this chapter may be amended, supplemented, changed, modified, or repealed by action of the board. Any such modification or repeal shall be proposed in a resolution or ordinance, as appropriate, presented to the board for adoption in the same manner and upon the same notice as required for the adoption of the original resolution or ordinance. The amendment, supplement, change, modification, or repeal may be requested through a petition by twenty percent of the landowners in the zoning district or districts requesting change. For purposes of this section, the term, landowner, means any person who owns land in the county as evidenced by records in the offices of the register of deeds and clerk of courts. If land is sold under a contract for deed that is of record in the office of the register of deeds in the county, both the landowner and the individual purchaser of the land, as named in the contract, are treated as landowners. Any charitable, benevolent, or religious society that owns any agricultural land in the county is not a landowner for purposes of this section if the agricultural land is exempt from taxation pursuant to § 10-4-10, but any such society is a landowner for purposes of this section for any of its real property in the county that is not exempt from taxation pursuant to § 10-4-10. **11-2-28**

- **County Funds Authorized for Payment of Costs.** The board may expend funds of the county, in the manner and to the extent permitted by law for other county expenditures, in the payment of necessary costs of preparation of petitions, surveys, maps, and applications submitted under the provisions of this chapter, and of the holding of elections on the establishment or enlargement of special zoning areas under the provisions of this chapter. **11-2-48**

PLAYGROUNDS: Refer to → Parks

POOR PERSONS: Refer to → INDIGENT PERSONS.

POOR RELIEF - CATASTROPHIC FUND: Refer to → INDIGENT PERSONS

POPULATION Ch 7-7

- **Determination of population of newly created or organized county.** The population of the counties of this state as the basis of salaries of county officers shall be determined by the last federal census. In all counties created or organized since the last federal census has been taken, the county commissioners shall provide for the taking of the census of such county as soon as the creation or organization of such county is completed and the expense thereof shall be paid by the county. The compensation of the persons authorized by the board of county commissioners to take such census shall be fixed by the board and the census so taken shall govern as a basis for the salaries of the officers of such county until the next federal census is taken. **7-7-14**
- **Determination of population for county salary purposes.** The annual salaries of the county auditor, the county treasurer, and the register of deeds of the several counties of this state shall be regulated and fixed by the population of the several counties as shown by the last federal census. **7-7-8**

PORNOGRAPHY

- **Municipal and county power to regulate obscene materials or obscene live conduct not preempted.** Except as provided in § 22-24-37, nothing contained in this chapter limits any county or municipality from regulating obscene material or obscene live conduct within its jurisdiction. **22-24-25**

POSTING OF NOTICE Ch 17-3

- **County commissioners to provide bulletin board--Location--Resolution of commissioners.** The county commissioners of each county shall provide a bulletin board which is adequate for the posting of legal notices. The bulletin board shall be located either at the entrance to the county courthouse or in one of the corridors of the courthouse commonly used by the public. If a county does not have a county courthouse, or maintains a separate building for the courts and their clerk, the bulletin board shall be located in one of the most public places in the county. In either event, the exact location where the bulletin board is to be maintained shall be designated and established by resolution of the board of county commissioners. **17-3-1**
- **Validation of notice by posting in public building despite absence of designation by county commissioners.** If a notice posted pursuant to § 17-3-2 was posted on a bulletin board in or at a public building maintained in whole or in part by the county or utilized by the courts, and the building was commonly used by the public, then despite the absence of the designation of the

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bulletin board by the county commissioners or the designation by them of a bulletin board at a public place other than the county courthouse, such posting is hereby validated and legalized and is of the same force and effect as though it had been posted on a bulletin board designated in the manner specified by § 17-3-1. **17-3-6**

PREDATOR CONTROL Ch 40-36

- ***County appropriations to animal damage control fund--Certification of amounts--State matching funds.*** Each county shall annually appropriate a sum equal to an assessment on all cattle and sheep based on the most current United States Department of Commerce census of agriculture, and the money shall be remitted to the state treasurer for deposit in the state animal damage control fund. Each county shall be assessed at a rate of twenty-five cents per head for all sheep and six cents per head for all cattle. The Department of Game, Fish and Parks shall certify, to each county auditor, the amount to be appropriated. The state animal damage control fund shall be matched two dollars for every one dollar of county appropriation by funds of the Department of Game, Fish and Parks to carry out the provisions of this chapter. **40-36-11**

- ***Bounties payable for coyotes--Restrictions on payments--Fraud--Penalty.*** The following bounties may be paid from the state animal damage control fund to any resident of this state who possesses a resident small game license or a resident predator/varmint license and who kills, within the boundaries of this state, including parks and monuments, the following animals:

- (1) For each adult coyote, five dollars;
- (2) For each coyote pup, five dollars.

The Game, Fish and Parks Commission may not approve any bounty claim except during the months of April, May, and June. No bounty payments may be made under this section unless the commission determines that the average price of raw furs in the round for the preceding winter is below five dollars per animal. Any person who exhibits to a county auditor the skin of an animal which was killed outside of the boundaries of that county, or who patches any skin or part of skin, for the purpose of defrauding the State of South Dakota, in any manner, is guilty of a Class 1 misdemeanor. **40-36-15**

- ***Special tax on sheep in eastern counties levied on petition of sheep owners--Predatory animals defined.*** When the board of county commissioners of any county east of the Missouri River is petitioned by two-thirds of the sheep owners whose names appear on the tax rolls of such county, to levy a special tax levy, not to exceed ten cents per head on all sheep within the county, for the purpose of raising a fund to be expended for the control of predatory animals as defined in this section, said board is hereby empowered to make such levy and collect the tax in the manner provided for the collection of other property tax. For the purpose of this section, predatory animals shall mean coyotes and foxes. **40-36-34**

- The board of county commissioners may, by resolution, offer a bounty of not more than fifty dollars for each coyote killed within the limits of the county. **40-36-37**

PREDATOR CONTROL DISTRICTS Ch 40-37

- ***Petition by livestock owners for designation of county as predator control district.*** The resident owners of at least fifty-one percent of the sheep, or the resident owners of at least fifty-one percent of the cattle, or the resident owners of at least fifty-one percent of both sheep and cattle acting jointly, in any county, as shown by the last county livestock census as provided for in § 40-37-1.1, may petition the secretary of the Department of Agriculture and Natural

Resources to designate the county as a predator control district. **40-37-1**

- **County livestock census--Procedure.** The director of equalization shall annually conduct a county livestock census if the county is a member of a predator control district. The board of county commissioners may require a county livestock census if there is significant interest in the formation of a predator control district. In conducting the county livestock census, the director of equalization may proceed in such manner and utilize such forms as may be approved by the board of county commissioners to effectuate the purposes of this chapter. The director of equalization may restrict the livestock census to sheep only or cattle only as may be appropriate.

40-37-1.1

- **Board of directors of district--Qualifications--Number.** Every predator control district established pursuant to this chapter shall be governed by a board of directors, all of whom shall be resident livestock owners and taxpayers within the district. The board of directors shall be composed of not more than nine members. **40-37-4**
- **Powers of district board of directors.** The board of directors of each predator control district is hereby authorized to appoint and pay employees, to bounty predatory animals, to make contracts, and to enter into agreements with agencies of federal or state governments or with local governments. **40-37-9**
- **Special tax levy on sheep and cattle--Maximum amount.** The board of county commissioners shall, at time of the annual levy of general taxes, levy an additional special tax in an amount specified by the board of directors pursuant to § 40-37-10 not to exceed one dollar per head of all sheep six months old or older as of January first of the current year that are being held for breeding purposes and one dollar per head of all cattle one year old or older not in feedlots.

40-37-11

- **Collection and payment to district of control district taxes--Credit to control district fund.** The proper tax collecting officials shall collect all predator control district taxes, together with interest and penalty thereon, if any, in the same manner as the general taxes are collected, and shall pay over to the predator control district secretary-treasurer on the tenth day of each month all taxes so collected during the preceding month, with interest and penalties collected thereon. The district secretary-treasurer forthwith shall enter these receipts to the credit of the predator control district fund. In addition, such tax may be enforced and collected by distress and sale of the livestock of such person in the same manner as is provided for the collection of mobile home taxes pursuant to chapter 10-22. **40-37-17**

PROPERTY

- **Condemnation of private property by county--Resolution of necessity.** The board of county commissioners may condemn private property for public purposes in the manner and to the extent provided by law. If the board of county commissioners deems it necessary to condemn private property for the purpose of opening, constructing, changing, relocating, maintaining, repairing, or extending any highway or bridge within its county, or for the purpose of erecting, repairing, or extending any courthouse, jail, or other public building, and of acquiring other or additional ground therefor, or for the purpose of providing cut slopes, borrow pits, or channel changes, or to afford unobstructed vision on the highways in the county at any point of danger to public travel, for right-of-way and borrow pit, or for the purpose of making any other public improvement or to acquire private property for any public use authorized by law, the board shall by resolution declare an appropriation necessary to be made and state the purpose and extent of

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the appropriation. Nothing in this section may be construed as authorizing county commissioners to condemn property for county courthouse or jail site until a majority of the voters of a county have voted in favor of the erection of a courthouse or jail. **7-18-9**

- ***Property and indebtedness of consolidated counties.*** The property of each of such consolidated counties shall after consolidation become the property of the new county. The indebtedness, if any, of each of such counties shall after consolidation be paid out of the taxes levied on the property in the respective territory of the county having contracted the same.

7-2-12

- ***Disposition of surplus property.*** The governing board of a political subdivision may sell, trade, loan, destroy, or otherwise dispose of any land, structures, equipment, or other property which the governing board has, by appropriate motion, determined is no longer necessary, useful, or suitable for the purpose for which it was acquired. No motion is required to sell, trade, loan, destroy, or otherwise dispose of consumable supplies, printed text, zoo animals, or subscriptions.

6-13-1

- ***Notice by publication of sale of surplus property--Exceptions.*** Any surplus property appraised pursuant to § 6-13-2 at five hundred dollars or less or any animal owned by a municipality for a zoo may be sold by the governing board at a private or public sale without notice. The governing board of the political subdivision shall give notice of the sale of all other surplus property, including property created as a result of an educational program in a school, by publishing a notice of the sale at least twice, with the first publication not less than ten days prior to the date of the sale. The first publication shall be in the official newspapers of the political subdivision and the second publication may be in any legal newspaper of the state chosen by the governing board of the political subdivision. If the political subdivision has no official newspaper, the first publication shall be made in a legal newspaper with general circulation in the area, to be selected by the governing board of the political subdivision. The notice shall describe the property to be sold and the time when bids will be opened. The governing board may open the bids or may designate an official and a witness to open all bids prior to the meeting of the governing board and shall state such in the notice of sale. Property to be transferred to another political subdivision pursuant to § 6-5-1 need not be advertised. **6-13-4**

- ***Receipt of sealed bids--Sale to highest bidder--Absence of bids--Private sale.*** Sealed bids received on the surplus property shall be filed with the fiscal officer of the political subdivision and shall be opened at a governing board meeting at the time specified in the notice required by § 6-13-4, or the governing board may designate an official of the political subdivision and a witness to open all bids before the meeting of the governing board as specified in the notice required by § 6-13-4. The governing board may reject any and all bids. However, if the governing board accepts a bid, it must be the bid of the highest bidder. If no bids are received, the governing board may have the surplus property reappraised pursuant to § 6-13-2, or may, within twelve months thereafter, sell the property at private sale for not less than ninety percent of the appraised value without further publication or appraisal. If the property to be sold was created as a result of an educational program in a school, the school board may accept the highest bid or it may reject all bids and may sell the property at private sale without further publication. **6-13-5**

- ***Sale by auction--Notice by publication.*** In lieu of sealed bids, the governing board of a political subdivision may sell surplus property at auction. Such governing board shall advertise such auction by publication pursuant to § 6-13-4. Surplus property may be sold to the highest

bidder at such auction. **6-13-6**

- ***Persons prohibited from purchasing surplus property--Exception.*** No governing board member, any officer of a county, municipality, township, or school district, who has been elected or appointed, or real property owner acting as an appraiser may purchase the surplus property except at public auction. **6-13-7**

- ***Deposit and credit of sale revenue.*** All revenue accruing from the sale of surplus property pursuant to this chapter shall be paid into the treasury of such political subdivision and credited, at the discretion of the governing board, to the general fund, to the fund in which such property was inventoried, or to the capital outlay fund of a school district. **6-13-8**

PROPERTY TAXES - DEPARTMENT OF REVENUE Ch 10-1

- ***General supervision of assessment of property for taxation--Forms--Classification of property.*** The secretary of revenue shall exercise general supervision over the administration of the assessment and tax laws of the state, over all boards of review and equalization, and all other assessing officers in the performance of their duties. The secretary of revenue shall provide that all assessments of property are made relatively just and equal in compliance with the laws of this state. The secretary of revenue shall prepare suitable forms for the listing of property and shall arrange and classify the items of all property in such groups and classes, and from time to time may change and separate or consolidate the groups or classes as necessary to secure more accurate and perfect listing and valuation of all property of the state. The secretary shall require all assessing and taxing officers to use blanks, forms, and books corresponding and conforming in size, form, and arrangement to those prescribed by the secretary of revenue. **10-1-15**

- ***Advice and direction to directors of equalization and boards--Instructional meetings of directors.*** The secretary of revenue shall confer with, advise, and direct directors of equalization and boards of review and equalization, as to their duties under the laws of the state. The secretary of revenue shall call meetings of all directors for the purpose of instruction as to the law governing the assessment and taxation of all classes of property. **10-1-16**

- ***Standard real estate appraisal manual.*** The secretary of revenue shall adopt, by rule promulgated pursuant to chapter 1-26, a standard real estate appraisal manual for all urban and rural property which shall be used by all directors of equalization in the state in complying with the provisions of chapter 10-6. The secretary shall also establish, by rule, the information and the procedures to be used in the cost, market and income approaches to valuation. **10-1-16.1**

- ***Order by secretary for reassessment of property in district.*** The secretary of revenue may order the reassessment of real property of any class in any assessment district if, in the judgment of the secretary, such reassessment is advisable or necessary in order to ensure that all classes of property in the assessment district are assessed in compliance with law. For that purpose, the secretary may require the director of equalization making the assessment to make the reassessment. **10-1-21**

- ***Investigation of evasions and violations of tax and assessment laws--Proceedings to remedy improper administration.*** The secretary of revenue shall examine all cases in which evasions or violations of the laws of this state relating to the assessment and taxation of property are complained of or discovered. The secretary shall examine all cases in which property subject to taxation has not been assessed or has been fraudulently or for any reason improperly or unequally assessed or in which the laws in any manner have been evaded or violated. The secretary shall institute proceedings to remedy improper or negligent administration of the laws

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relating to the taxing of property in the state. **10-1-25**

- ***Certification required for assessing or appraising officials.*** No state or county official or any other person charged with the duty of assessing or appraising real property for purposes of taxation may continue in office unless he holds an appropriate certificate issued by the Department of Revenue, upon successful completion of a written examination or has been accepted for enrollment in a certification program to be conducted by the department and approved by the South Dakota Association of Assessing Officers, to be completed within one year. Certification is not required of clerical staff not engaged in field assessing or appraising.

10-3-1.1

- ***Appointment of county director--Mayor participating.*** The county director of equalization shall be appointed by the board of county commissioners at either a special or regular meeting of the commissioners. If a single municipality contains fifty percent or more of the population of a county, the mayor of the municipality and the board of county commissioners shall make the appointment, and the mayor is entitled to sit and vote with the board. **10-3-3**

- ***Term of office of director--Dismissal--Subsequent terms--Vacancies in office.*** The term of office of the director of equalization shall commence upon appointment and may be terminated for cause as provided in § 3-17-6 upon recommendation of the appointing governing body after hearing upon not less than ten days' notice. However, the board of county commissioners may dismiss the director of equalization without cause during the first year of such appointment. After the first year of such appointment, no person is qualified to serve unless such person holds an appropriate certificate issued by the Department of Revenue. Vacancies in office shall be filled in the same manner as the original appointment is made. **10-3-5**

- ***Appointment of deputies subject to recommendations of director--Powers and duties.*** The county commissioners may appoint deputies to the county director of equalization. Such deputies shall hold office at the pleasure of the county commissioners and are subject to the recommendations of the director of equalization and have the same powers and duties as the director of equalization. **10-3-11**

- ***Annual conference of commissioners and director.*** The director of equalization shall meet the county commissioners at the office of the county commissioners on the first meeting of April for conference in reference to the performance of the director's duties. **10-3-14**

- ***Appeal by director to county board of equalization--Taxpayer's right to appeal to circuit court preserved--Stay of appeal to Office of Hearing Examiners.*** The director of equalization may appeal any decision of the local board of equalization to the county board of equalization. An appeal from a decision of the local board shall be made and perfected by the filing of a notice with the county auditor and mailing a copy of such notice to the property owners and to the clerk or auditor, as the case may be, of the local board on or before the third Tuesday in April. Nothing in this chapter affects the right of a taxpayer to appeal from the decision of the county board of equalization to the circuit court. Such an appeal by a taxpayer to the circuit court shall preclude and stay any appeal taken by the director of equalization to the Office of Hearing Examiners.

10-3-35

- ***Definition of real property for ad valorem taxation purposes.*** Real property, for the purposes of ad valorem taxation, includes:

- (1) Land and all rights and privileges thereto belonging;
- (2) Improvements to land and all rights and privileges thereto belonging, consisting of items permanently affixed to and becoming part of the real estate. The term, permanently

affixed, refers to the economic life of the improvement rather than perpetuity;

(3) Mines, minerals, and quarries;

(4) Buildings and structures which are on foundations, and improvements to buildings and structures including any heating system, air conditioning, ventilation, sanitation, lighting, or plumbing which is part of the building or structure; and

(5) Mobile homes as defined in subdivision 32-3-1(8) which are on foundations.

For assessment purposes, a structure is anything constructed or erected from an assembly of materials, which requires a permanent location on or in the ground. For assessment purposes, a building is a structure designed to stand permanently and cover a space of land which is enclosed by walls and is covered with a roof. **10-4-2**

- ***Property owned by benevolent organization and used exclusively for benevolent purposes exempt--Exception.*** Property owned by a benevolent organization and used exclusively for benevolent purposes is exempt from taxation. A benevolent organization is any lodge, patriotic organization, memorial association, educational association, cemetery association, or similar association. A benevolent organization shall be nonprofit and recognized as an exempt organization under section 501(c)(3), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the United States Internal Revenue Code, as defined by § 10-1-47. However, if any such property consists of improved or unimproved property located within a municipality not occupied or directly used in carrying out the primary objective of the benevolent organization owning the same, such property shall be taxed the same as other property of the same class is taxed. However, if any such property consists of agricultural land, such property shall be taxed the same as other property of the same class is taxed. For the purposes of this section, an educational association is a group of accredited elementary, secondary, or postsecondary schools. For the purposes of this section, a benevolent organization also includes a congressionally chartered veterans organization which is nonprofit and recognized as an exempt organization under section 501(c)(4) of the United States Internal Revenue Code, as defined by § 10-1-47. For purposes of this section, benevolent purpose means an activity that serves the poor, distressed or underprivileged, promotes the physical or mental welfare of youths or disadvantaged individuals, or relieves a government burden.

10-4-9.2

- ***Educational institution property exempt--Income property taxable.*** All property owned by any educational institution in this state as a school which is accredited or approved as a school by the accreditation division within the Department of Education, by the board of regents or by a nationally recognized accreditation service is exempt from taxation. However, if any such property consists of agricultural land or improved or unimproved municipal property not occupied or directly used in carrying out the primary object of the educational institution owning the same, it shall be taxed the same as other property of the same class is taxed. However, if any such educational institution is operated for profit, this exemption applies only to that portion of property which is used exclusively for student housing, student and administrative parking and instructional or administrative purposes. **10-4-13**

- ***Property of charitable, benevolent or religious society used partly for income and partly for society purposes.*** If property owned by any health care organization or charitable, benevolent, or religious society described in § 10-4-9.4 and §§ 10-4-9 to 10-4-9.3, inclusive, other than agricultural land, is used partly by such health care organization or charitable, benevolent, or religious society for health care, charitable, benevolent, or religious purposes,

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and the remaining part is occupied, rented, or used for other than health care, charitable, benevolent, or religious purposes, the portion of property that is so occupied, rented, or used for other purposes, shall be taxed as other property of the same class is taxed. For the purpose of determining the value of the taxable portion of the property, the appraised value of the entire property shall be multiplied by the percentage of the entire property used for other than health care, charitable, benevolent, or religious purposes. The resulting value shall be multiplied by the percentage of time the property is used for other than health care, charitable, benevolent, or religious purposes. The resulting value shall be the assessed value for taxation purposes. **10-4-12**

- ***Agricultural structures specially classified--Amount exempt from taxation--Relative defined.*** Buildings and structures, other than normally occupied dwellings on agricultural land and automobile garages or portions of buildings used for that purpose, which are used exclusively for agricultural purposes and situated on agricultural land are hereby specifically classified for tax purposes as agricultural property. Ten thousand dollars of the full and true value of all buildings located upon each building site and used in connection with the taxpayer's agricultural pursuits is exempt if there is a dwelling which is occupied by an owner or relative of an owner or a beneficiary of a trust or a trustee for at least six months of a year but not necessarily on the assessment date. Such dwelling shall be located on agricultural land and classified as nonagricultural property under § 10-6-31. The application requirement in § 10-4-15 does not apply to this section. If an owner is a corporation, trust, or a partnership, each stockholder, member, beneficiary, trustee, or partner who resides on such property shall be an owner pursuant to this section. For the purposes of this section, a relative is a person who is related within the third degree of kinship. However, no building site may receive more than one ten thousand dollar exemption pursuant to this section. For the purposes of this section, a manufactured home or a mobile home is a dwelling.

10-4-13.1

- ***Application for exemption of business incubator, charitable, religious, educational, or local industrial development property.*** Any person, organization, corporation, or association claiming a property tax exemption status for any property under §§ 10-4-8.1 to 10-4-14, inclusive, § 10-4-39, or as may otherwise be provided by law, shall apply for such exemption to the county director of equalization on forms prescribed by the secretary of revenue prior to November first of the tax year. **10-4-15**

- ***Apportionment when property transferred from exempt entity to nonexempt entity.*** Any real property which is owned or controlled by a tax-exempt entity and which is transferred to a nonexempt person, firm, or corporation after the legal assessment date is liable for taxation for that portion of the taxable year in which it is not owned or controlled by a tax-exempt entity. The nonexempt person, firm, or corporation is liable for the payment of all taxes based on an assessment during the year of transfer, proportionate to the length of time such nonexempt person, firm, or corporation owns such property. Such transferred property may not be taxed for any month in the taxable year in which such property is in the legal possession of any such tax-exempt entity for more than sixteen days. Such property shall be valued for tax purposes as of the legal assessment day. **10-4-19.2**

- ***Wellness center defined--Taxable percentage.*** For the purposes of § 10-4-9.3, a "wellness center" is a health care facility if it links on- and off-site medical consultants with physical activity staff and programs of health and fitness facilities, can and does provide fitness testing and prescription exercise tailored to specific individual needs and capabilities, and the

property is used for rehabilitation services or prescriptive exercise. For the purposes of § 10-4-12, the taxable percentage of a wellness center shall be determined by computing the percentage of the total membership that do not use the facility for physician prescribed rehabilitation or prescriptive exercise. **10-4-35**

- **Period during which assessment made--Date of assessment.** All real property subject to taxation shall be listed and assessed annually, but the value of such property is to be determined according to its value on the first day of November preceding the assessment. **10-6-2**

- **Classification of property--Notation by director.** For the purposes of taxation, all property is hereby classified into the following classes:

- (1) Agricultural property;
- (2) Nonagricultural property; and
- (3) Owner-occupied single-family dwellings.

Agricultural property includes any land classified as agricultural land pursuant to § 10-6-112 and any improvements on the agricultural land used exclusively for agricultural purposes. However, agricultural property does not include any normally occupied dwelling or automobile garage or portion of a building used for that purpose by the occupant of such dwelling. Owner-occupied single-family dwellings include all property classified pursuant to § 10-13-39. Nonagricultural property includes all other property not otherwise classified.

The director, in listing and assessing all property to which this section applies, shall designate opposite each description the class to which the property belongs. **10-6-110.**

- **Agricultural land taxed without regard to zoning.** Any land classified as agricultural land pursuant to § 10-6-112 shall be taxed as agricultural land without regard to its zoning classification. If any portion of the land is sold or otherwise converted to a principal use other than agricultural, then it shall be classified and taxed accordingly. **10-6-111**

- **Classification of agricultural land--Criteria.** For tax purposes, land is agricultural land if the land's principal use is devoted to the raising and harvesting of crops or timber or fruit trees, the rearing, feeding, and management of farm livestock, poultry, fish, or nursery stock, the production of bees and apiary products, or horticulture, all for intended profit. Agricultural land also includes woodland, wasteland, and pasture land, but only if the land is held and operated in conjunction with agricultural land and is under the same ownership. For purposes of this section, the term, principal use, means the primary use to which the land is devoted. This definition is intended to reference the primary and predominant use of the land as opposed to a mere secondary and incidental use. In addition, to be classified as agricultural land for tax purposes, the land must meet one of the following criteria:

- (1) In three of the previous five years, an annual gross income of at least two thousand five hundred dollars is derived from the pursuit of agriculture from the land, excluding transactions between:
 - (a) An individual and anyone with whom the individual shares a residence;
 - (b) An individual and an entity in which the individual and anyone who shares a residence with the individual have an aggregate ownership interest of more than fifty percent; or
 - (c) Entities that are members of the same controlled group, as defined in § 10-45-20.3.

The owner shall produce to the director of equalization any writing that is requested by the director for the purpose of verifying that the requirement of this subdivision has been satisfied; or

- (2) Subject to the board of county commissioners increasing the minimum acre requirements, the land consists of at least twenty acres or is a part of a management unit of not less than eighty

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acres. The board of county commissioners may not increase the minimum acre requirements of this subdivision to an amount greater than one hundred sixty acres.

For the purposes of this section, the term, management unit, means any two or more parcels of land, whether adjoining or not, under common ownership located within this state and managed and operated as a unit for one or more of the principal uses listed in this section. No parcel of land within a management unit may be more than twenty air miles from the nearest other parcel within the management unit. If requested by the director, the owner shall provide supporting documentation of the land contained in the management unit. **10-6-112**

- ***Minimum and maximum median sales to assessment ratio.*** The median sales to assessment ratio of all real property may not be less than eighty-five percent or more than one hundred percent. **10-6-121.**
- ***Maximum coefficient of dispersion.*** The coefficient of dispersion for real property in a county, as calculated pursuant to § 10-11-59, may not be more than twenty-five percent. **10-6-122**
- ***Discretionary formula for reduced taxation of new structures and additions--Partially constructed structures.*** Any structure classified pursuant to this section, must, following construction, be valued for taxation purposes in the usual manner. The board of county commissioners of the county in which the structure is located, may adopt a formula for assessed value to be used for tax purposes. Except as otherwise provided in § 10-6-137.1, the formula may include, for any or all of the five tax years following construction, all, any portion, or none of the assessed value for tax purposes. Any formula adopted must be equally applied to specifically classified properties within a tax increment finance district.

The board of county commissioners of the county in which the structure is located may, if requested by the owner of the structure, fully assess the structure without application of the formula. In waiving the formula for the structure of one owner, the board of county commissioners is not prohibited from applying the formula for subsequent new structures.

The assessed value during any of the five years may not be less than the assessed value of the property in the year preceding the first year of the tax years following construction.

Any structure that is partially constructed on the assessment date may be valued for tax purposes, pursuant to this section, and the value may not be less than the assessed value of the property in the year preceding the beginning of construction. The period that the property is valued for tax purposes under this section may include the years when the property is partially constructed.

Following the five-year period under this section, the property must be assessed at the same percentage as all other property for tax purposes, except as otherwise provided in § 10-6-137.1.

Any of the following types of real property may be specifically classified for the purpose of taxation pursuant to this section:

- (1) Any new industrial or commercial structure, or any addition, renovation, or reconstruction to an existing structure, located within a designated urban renewal area as defined in § 11-8-4, if the new structure, addition, renovation, or reconstruction has a full and true value of thirty thousand dollars or more;
- (2) Any new industrial structure, including a power generation facility, or an addition to an existing structure, if the new structure or addition has a full and true value of thirty thousand dollars or more;
- (3) Any new nonresidential agricultural structure, or any addition to an existing structure, if the new structure or addition has a full and true value of ten thousand dollars or more;
- (4) Any new commercial structure, or any addition to an existing structure, except a

commercial residential structure as described in subdivision (5), if the new structure or addition has a full and true value of thirty thousand dollars or more;

(5) Any new commercial residential structure, or addition to an existing structure, containing four or more units, if the new structure or addition has a full and true value of thirty thousand dollars or more;

(6) Any new affordable housing structure containing four or more units, with a monthly rental rate of the units at or below the annually calculated rent for the state's sixty percent area median income being used by the South Dakota Housing Development Authority for a minimum of ten years following the date of first occupancy, if the structure has a full and true value of thirty thousand dollars or more;

(7) Any new residential structure, or addition to or renovation of an existing structure, located within a redevelopment neighborhood established pursuant to § 10-6-141, if the new structure, addition, or renovation has a full and true value of five thousand dollars or more. The structure must be located in an area defined and designated as a redevelopment neighborhood based on conditions provided in § 11-7-2 or 11-7-3; or

(8) Any commercial, industrial, or nonresidential agricultural property that increases more than ten thousand dollars in full and true value, as a result of reconstruction or renovation of the structure. **10-6-137.**

• ***Notice Of Assessment--Required Information--Promulgation of Rules.***

The director shall mail or transmit electronically a notice of assessment to each property owner not later than March first that contains:

(1) A statement that property occupied by the owner or a parent of the owner may be eligible for tax relief by being classified as an owner-occupied single-family dwelling pursuant to §§ 10-13-39 through 10-13-40;

(2) A statement that property owned and occupied by a veteran who is rated as permanently and totally disabled from a service-connected disability or the veteran's surviving spouse may be eligible for tax relief pursuant to §§ 10-4-40 and 10-4-41;

(3) A statement that a dwelling specifically designed for use by a paraplegic as a wheelchair home that is owned and occupied by a paraplegic veteran, a veteran with the loss or loss of use of both lower extremities, or the veteran's surviving spouse may be eligible for tax relief pursuant to § 10-4-24.10;

(4) A statement that a dwelling owned and occupied by a paraplegic or an individual with the loss or loss of use of both lower extremities may be eligible for tax relief pursuant to § 10-4-24.11;

(5) A statement that property owned by a citizen who reached sixty-five years of age or who is disabled may be eligible for tax relief pursuant to chapter 10-6A; and

(6) Uniform information prescribed by the secretary of the department.

The secretary of the department may promulgate rules, pursuant to chapter 1-26, concerning the form and content of the notice. **10-6-154.**

• ***Annual application for assessment freeze--Filing deadline--Forms--Petition for recalculation of taxes upon failure to meet deadline.*** The application for the real property tax assessment freeze provided under this chapter shall be annually submitted on or before April first on forms prescribed by the secretary of revenue. The form shall be made available to the county treasurer who shall, upon request of an applicant, assist the applicant in completing the form. The property owner shall sign the certificate under penalty of perjury. A person failing to comply with

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the April first deadline for the previous year, but otherwise qualifying for the real property tax assessment freeze provided under this chapter, may petition the board of county commissioners to recalculate the taxes based on the valuation the person would have received under this program and abate the difference in taxes. **10-6A-4**

- ***County treasurer to determine eligibility.*** The county treasurer shall make the final determination whether an applicant seeking the real property tax assessment freeze pursuant to this chapter is qualified. **10-6A-6**

- ***Records of values of frozen assessments.*** A director of equalization shall maintain records showing the value at which property is frozen under provisions of this chapter. However, the director of equalization shall in addition reassess such property in the same manner as all other property and keep a record of that value. **10-6A-7.1**

- ***Denial of claim--Hearing before secretary of revenue--Appeals.*** Any person aggrieved by the denial in whole or in part of relief claimed under the provisions of this chapter may, within thirty days after receiving notice of such denial by the county treasurer, demand and shall receive a hearing, upon notice, before the secretary on the question. The hearing shall be conducted and appeals allowed in the manner specified in chapter 1-26. **10-6A-9**

- ***Annual listing of mobile home with county director--Information and copy of title furnished.*** The owner of each mobile home shall, on or before the first day of February of each year, list the mobile home with the county director of equalization in the county where the mobile home is located. The owner shall also provide the director of equalization a copy of the valid title to the mobile home if not previously provided. The listing shall be on a form prescribed by the secretary of revenue and provided by the director of equalization and a copy thereof shall be furnished to the county auditor. The applicant shall state, under oath, his name; address; location of mobile home; manufacturer's name; or make of trailer; model; serial number; width; length; weight; and shall also furnish the name and number of the school district, or municipality and the county in which the mobile home is parked or occupied. **10-9-3**

- ***Failure to list mobile home as misdemeanor--Liability for tax--Penalty assessment.*** Any owner who fails to list his mobile home, as required by this chapter, is guilty of a Class 2 misdemeanor. In addition he shall be required to pay the tax together with penalty and interest. Any person failing or neglecting to register his mobile home for taxation, shall in addition, be subject to the penalty of having added to his assessment the additional sum of five percent of such assessment for any period the registration is delinquent up to thirty days, and thereafter the additional sum of ten percent of such assessment. **10-9-5**

- ***Valuation of mobile homes.*** All mobile homes shall be valued and assessed by the county director of equalization in accordance with the provisions of this chapter, and in the same manner as such value and assessment is determined by the secretary of revenue. In determining the valuation of mobile homes, the director of equalization shall use a nationally recognized appraisal guide approved by the secretary of revenue. **10-9-7**

- ***Tax immediately payable--Deferred payment--Action on delinquencies.*** On May first, after the tax as computed as prescribed in § 10-9-9 has been assessed, one-half of the unpaid real estate tax is delinquent. However, any real estate tax totaling fifty dollars or less shall be paid in full on or before April thirtieth. If the other half of the real estate tax is not paid on or before October thirty-first of that year, that portion of the unpaid real estate tax is delinquent. If a mobile home is registered after October thirty-first, the taxes for that year shall be paid within thirty days. Any delinquent tax immediately becomes subject to the provisions of §§ 10-9-12, 10-9-13,

and 10-9-13.1. **10-9-10**

- ***Lien of tax on mobile home--Collection of delinquent tax.*** This tax shall become a lien upon the mobile home assessed from and after the date of listing of the mobile home. If the taxpayer fails to pay within the period prescribed in § 10-9-10, the statutory remedies for the collection of delinquent taxes shall be applicable. **10-9-13**

- ***Collection of taxes on mobile homes removed from county.*** The county treasurer shall proceed to collect the taxes upon mobile homes assessed for the current year whenever such property is removed or about to be removed from the county or state or when in the opinion of the county treasurer the owner or owners, or person in charge or control of such mobile home performs any act which would have a tendency to hinder, delay or prejudice the collection of such taxes. The county treasurer shall collect such taxes regardless of whether such taxes have been levied or placed upon the duplicate tax list of the county. **10-9-15.1**

- ***Consideration and equalization of classification and valuations at annual equalization meeting--Changes by Office of Hearing Examiners.*** The county commissioners at the regular annual equalization meeting, shall consider the classification made pursuant to § 10-10-5, together with the value placed upon each tract of land and the value of the improvements thereon, and may, for good cause shown, change such classification and value thereon as may be just, and shall make such equalization thereof between the various townships as is now provided by law therefor. The valuations placed upon such lands shall become the basis for taxation purposes subject only to any change that may be made under the law by the Office of Hearing Examiners in equalizing property valuations between the different classes of property in the various counties of the state. However, the Office of Hearing Examiners may not in any way raise the total valuation of such property within the state.

10-10-8

- ***Composition of local boards of equalization--Time and place of annual meeting.*** The board of supervisors of each township and the governing body of each incorporated municipality, together with a member of the school board or school boards whose district comprises all or a part of the township or municipality, shall meet on the third Monday of March for the purpose of equalizing the assessment of property in each township or municipality. The meeting shall be held at the office of the municipal clerk or finance officer, the office of the township clerk, or the location established pursuant to § 8-3-1 by the township board. The equalization board shall immediately ascertain whether all taxable property in the respective township or municipality has been properly placed upon the assessment roll and has been duly valued by the director of equalization. **10-11-13**

- ***Addition of omitted property by local board--Procedure for assessment.*** If any real property is omitted by inadvertence or otherwise, the township or municipal board of equalization shall place the property upon the assessment roll with the true value of the property and shall correct the assessment so that each tract or lot of real property is entered on the assessment roll at its true value. The procedure provided for in §§ 10-11-2 to 10-11-8, inclusive, relating to the assessment of omitted property is applicable as far as practicable. **10-11-19**

- ***Right of appeal from local board to county board of equalization.*** Any property owner or taxpayer feeling aggrieved may appeal from the decision of any local board of equalization to the board of equalization of the county in which the municipality or township is situated. **10-11-22**

- ***Composition of county board of equalization--Oath of office--Time, place and duration***

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of meetings. The county commissioners, or a majority of them, constitute a board for the equalization of the assessment of property. Before entering upon the discharge of their duties, each member of the board shall take an oath to fairly and impartially perform the duties of a member of the board. The board shall meet for the purpose of hearing appeals and equalizing the assessments of property. The board shall meet annually on the second Tuesday in April at the Office of the Auditor. The board shall continue in session and may adjourn from time to time until all properly filed appeals have been determined and equalization is completed. The board may remain in session no longer than three weeks after the second Tuesday in April. **10-11-25**

- ***Increase in individual assessment--Advance notice required.*** No individual assessment of any property owner of the county may be raised without notice in advance to the property owner, except as authorized in subdivision 10-11-26(3). **10-11-34**

- ***Record of county board proceedings maintained by auditor--Copy transmitted to Department of Revenue.*** The county auditor shall keep an accurate record of the proceedings and orders of the county board of equalization, which record shall be published the same as other proceedings of the board of county commissioners, and a copy of such published proceedings shall be transmitted to the Department of Revenue with the abstract of the assessment required by § 10-11-41. **10-11-40**

- ***Correction of assessment lists to show changes by county board--Abstracts of lists.*** The county director of equalization shall calculate the changes of the assessment lists determined by the county board of equalization and make corrections accordingly. Having made corrections of the lists, the director shall make duplicate abstracts of the list, one copy of which shall be filed in his office and one copy shall be forwarded to the Department of Revenue on or before the third Monday of May following each county equalization. The abstract shall be in the form prescribed by the Department of Revenue. **10-11-41**

- ***Appeal from county board to Office of Hearing Examiners--Notice by county board--Procedure--Right of appeal to circuit court preserved.*** Any owner or taxpayer feeling aggrieved by the decision of the county board of equalization relative to the assessment of its property or any taxing district or governmental subdivision or agency in which such property is located, feeling aggrieved by the decision of the county board of equalization may appeal to the Office of Hearing Examiners. An appeal to the Office of Hearing Examiners from a county board of equalization shall be perfected by mailing or by filing a notice of appeal with the chief administrative law judge, Pierre, South Dakota, no later than the third Friday in May. If perfected by mailing, the postmark shall be conclusive evidence regarding the timeliness of the appeal. The chief administrative law judge shall file a copy of the notice with the county director of equalization within ten days after receipt of notice of appeal. The county director of equalization shall file notice of appeal to the appropriate clerk of the local board of equalization prior to the hearing of the appeal by the Office of Hearing Examiners. The notice shall state informally the substance of the decision appealed from and the grounds upon which appeal is taken. The county board of equalization or any person pecuniarily interested in sustaining its decision, as well as the appellant, may be heard in person or by attorney upon appeals to the Office of Hearing Examiners. Nothing in this section prevents an appeal to the circuit court as provided in § 10-11-44, but an appeal to either tribunal excludes an appeal to the other. **10-11-42**

- ***Percentage changes by secretary of revenue in real property assessments within county.*** Whenever assessments may be equalized pursuant to § 10-11-47, the secretary of revenue shall equalize the assessment of land and structures thereon, separately, by adding to the aggregate

value thereof, in every county in which the secretary of revenue may believe the valuation to be less than required by law for assessment purposes, such rate percent as will raise the same to its proper proportionate value, and by deducting from the aggregate assessed value thereof, in every county in which the secretary of revenue may believe the value to be more than required by law for assessment purposes, such percent as will reduce the same to its proper proportionate value. Town and city lots shall be equalized in the same manner as herein provided for equalizing lands. Any person aggrieved by the actions of the secretary of revenue taken pursuant to this section and §§ 10-11-47 and 10-11-50 may appeal to the Office of Hearing Examiners, which appeal shall be taken and conducted pursuant to the provisions of chapter 1-26. A decision of the Office of Hearing Examiners shall be final without further agency action. **10-11-48**

- ***Annual studies by department of assessment to sales ratios.*** The secretary of revenue annually shall prepare and publish comprehensive assessment to sales ratio studies of the average level of assessment, the degree of assessment uniformity, and the overall compliance with assessment requirements for each class of property in each county in the state. **10-11-55**

- ***Annual county levy for general purposes--Estimate of expenses as basis for levy.*** On the first Tuesday in September of each year, or within ten days thereafter, the board of county commissioners shall levy the necessary taxes for the current fiscal year on all taxable property in the county. The taxes shall be based upon an itemized estimate of the county expenses for the ensuing year. No greater levy of county tax may be made upon the taxable property of any county than will be equal to the amount of such expenses, with an excess of five percent of the same. **10-12-8**

- ***Purposes for levy of county taxes.*** The levy of county taxes pursuant to § 10-12-8 shall include the following purposes:

- (1) For general county purposes;
- (2) For the support of the mentally ill pursuant to § 27A-13-15 and developmentally disabled pursuant to chapters 27B-4 and 27B-9;
- (3) For salaries;
- (4) For county roads, in addition to the road taxes levied by townships and municipalities, and it shall have the entire supervision of the expenditure of such taxes. In all municipalities an amount equal to the average road levy distributed to the municipalities within the county for calendar years 1984, 1985, and 1986 shall be paid by the county treasurer to the municipal finance officer of the municipality. If a municipality is incorporated after January 1, 1984, the amount paid to the municipality shall be determined pursuant to § 10-12-32.1. Such money shall be expended by the governing body of the municipality only for bridge and street purposes within the municipality;
- (5) For fire guards in territory not organized into civil townships, to be levied against the taxable property of such unorganized territory;
- (6) For county bridges;
- (7) For county parks pursuant to chapter 41-18;
- (8) For support of the poor pursuant to chapter 28-13;
- (9) For a public defender pursuant to chapter 7-16A;
- (10) For recreation, tourism and industrial development pursuant to § 7-18-12;
- (11) For contingency appropriations pursuant to §§ 7-21-6.1 and 7-21-32.2;
- (12) For county monuments pursuant to § 7-26-1;
- (13) For historical sites pursuant to § 7-26-3;

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- (14) For historical museums pursuant to § 7-26-5;
- (15) For abandoned cemeteries pursuant to § 7-26-7;
- (16) For a county fair pursuant to chapter 7-27;
- (17) For real estate classification pursuant to § 10-10-2;
- (18) Repealed by SL 2014, ch 55, § 2;
- (19) For operation of a public library pursuant to § 14-2-47;
- (20) For the judicial system pursuant to chapter 16-2;
- (21) For day care centers pursuant to § 26-6-18.3;
- (22) For mental health centers pursuant to § 27A-5-9;
- (23) For senior citizens pursuant to § 28-18-6;
- (24) For emergency welfare pursuant to § 28-13-19;
- (25) For roads in national forests pursuant to § 31-9-4;
- (26) For health departments pursuant to § 34-3-22;
- (27) For drug abuse pursuant to chapter 34-3B;
- (28) For hospital operation and maintenance pursuant to §§ 34-8-19 and 34-8-20;
- (29) For hospital wards pursuant to § 34-8-23;
- (30) For aid to city hospitals pursuant to chapter 34-9;
- (31) For ambulance service pursuant to § 34-11-1;
- (32) For fire protection pursuant to chapter 34-31;
- (33) For conservation districts pursuant to §§ 38-8-49.1, 38-8-55, 38-8-56, and 38-8-57;
- (34) For weed and pest control pursuant to §§ 38-22-24 and 38-22-26;
- (35) For animal damage control pursuant to § 40-36-11;
- (36) For cooperative parks pursuant to §§ 42-2-10 and 42-2-11;
- (37) For recreation systems pursuant to chapter 42-2;
- (38) For activities of the elderly pursuant to §§ 42-2-6 and 42-2-7;
- (39) For geological survey pursuant to § 45-2-3;
- (40) For flood control pursuant to §§ 7-18-14, 7-18-15, and 46A-14-71;
- (41) For safety programs pursuant to § 7-18-13;
- (42) For airports pursuant to chapter 50-7;
- (43) For emergencies and disasters pursuant to chapter 34-48A;
- (44) For Memorial Day expense pursuant to § 7-8-24;
- (45) For the fiscal and managerial affairs of the county pursuant to § 7-8-20;
- (46) For extension services pursuant to §§ 13-54-8 to 13-54-13, inclusive. 10-12-9

- ***Use of unexpended balances in county road and bridge funds--Reversion to general fund prohibited.*** Any unexpended balance remaining in any road, highway, or bridge fund of the county may, at the end of the fiscal year be transferred to the county highway and bridge reserve fund established in § 10-12-13. Any money in said fund, not necessary for the purpose of matching federal aid grants heretofore made or for the current year may be expended for laying out, marking, constructing, reconstructing, and maintaining any roads and any bridges on the county secondary federal aid system under the jurisdiction of the board of county commissioners, or such funds may be allowed to accumulate as a reserve fund and be used for future improvement and construction of public highways and bridges. No part of such fund shall revert to the general funds of the county nor shall any of said funds be used for any other purpose than for highway or bridge purposes as provided herein. **10-12-16**

- ***Annual levy of organized township--Certification to county auditor.*** On the last Tuesday in March of each year, or within ten days thereafter, the board of supervisors of each organized civil township shall levy the annual taxes for the ensuing year, as voted at the annual town meeting, and immediately thereafter the township clerk shall certify to the county auditor the amounts of such levies, in substantially the following form:

For general purposes _____ dollars.

For bridge purposes _____ dollars.

For fireguard purposes _____ dollars. **10-12-26**

- ***Annual school district levy--Report to county auditor--Spread against property.*** The school district board of a school district shall by resolution adopt a levy in dollars and cents sufficient to meet the school budget for the general fund of the district for the current fiscal school year. The school district shall report the levy to the county auditor by the first of October on forms prescribed by the county auditor. The county auditor shall spread a levy in dollars and cents over the taxable property of the school district sufficient to raise the money requested by the school district, subject to the legal dollar limitations provided by law. **10-12-29**

- ***Adjusting level of assessment for school districts.*** Notwithstanding other provision of law, when applying the levies for school purposes, the county director of equalization of each county shall adjust the level of assessment in that district so that the level of assessment as indicated by the most recent assessment to sales ratio as provided for in § 10-11-55 and the most recent agricultural income value as provided for in § 10-6-33.28 to 10-6-33.33, inclusive, in that district are equal to eighty-five percent of market value or agricultural income value. The Department of Revenue shall provide the director of equalization of each county all of the factors of adjustment necessary for the computations required in this section. **10-12-31.1**

- ***Maximum rate of levy in municipalities.*** In municipalities, the levy may not exceed twenty-seven dollars per thousand dollars of taxable valuation. **10-12-32**

- ***Equalizing assessment of land and structures on property between counties.*** If assessments have been equalized pursuant to § 10-12-38, the Department of Revenue in connection with its general and specific powers and duties, shall equalize the assessment of land and structures thereon, separately, by adding to the aggregate value thereof, in every county in which the department may believe the valuation to be less than required by law for assessment purposes, such rate percent as will raise the same to its proper proportionate value, and by deducting from the aggregate assessed value thereof, in every county in which the department may believe the value to be more than required by law for assessment purposes, such percent as will reduce the same to its proper proportionate value. Municipal lots shall be equalized in the same manner as provided in this section for equalizing lands. **10-12-39**

- ***Calculation and extension of tax levies--Limitations on levies applied.*** The rate percent of all county, township, municipal, and school taxes shall be calculated and fixed by the county auditor, in dollars and cents, within the limitations prescribed by this code, and all such taxes shall be extended by the county auditor. If any county, township, municipality, or school district shall return a greater amount than the prescribed rate will raise, the county auditor shall extend only such amount of tax as the prescribed rate will produce. **10-17-2**

- ***Charging county treasurer with amount in tax lists--Additional assessments--Credit for amounts collected--Reconciliation of unpaid taxes to unpaid tax list balance.*** The county auditor shall, immediately after preparation of the tax lists, charge the county treasurer with the

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amount of the lists as shown in the recapitulation thereof, in a record prepared for that purpose. The auditor shall also charge the treasurer in the tax list account with all additional assessments made after the list is prepared and shall credit the treasurer with all amounts collected and any other amounts as may be lawfully deducted from such lists. The auditor shall reconcile the unpaid taxes shown in the tax lists that are no more than six years old to the unpaid balance of taxes in the tax list account each December thirty-first or within thirty days thereafter. **10-17-9**

PROPERTY TAX ABATEMENT AND REFUNDS Ch 10-18:

• ***Compromise, abatement or rebate of uncollectible tax--Circumstances in which authorized--Apportionment among funds and taxing districts.*** The board of county commissioners may compromise, abate or rebate taxes in the following cases:

(1) The board may abate any or all of the delinquent taxes and penalty on real property if taxes remain unpaid and the property has been offered for sale as required by the code for two successive years and not sold because of depreciation in the value of the property or otherwise, or if any property has been bid in by the county and one year has elapsed since the bid;

(2) If the board determines that the full amount of any taxes extended and charged against any real property platted into lots and blocks cannot be realized by a sale of the property or otherwise, it may settle or compromise any of the taxes for any year or years as in its judgment is in the best interest of the county;

(3) The board may compromise, abate, or cancel any taxes extended against any real property conveyed to the State of South Dakota for the benefit of any of its educational institutions, or when the county has acquired lands through foreclosure of permanent school fund mortgage loans, courthouse building fund loans, jail building fund loans, courthouse and jail building fund loans, or through foreclosure of mortgages pledged to the county to secure county deposits or lands taken in satisfaction thereof;

(4) The board may, as a means of relief, abate in an equitable manner the taxes assessed or extended against real property for the year in which a loss occurred because of flood, fire, storm, or other unavoidable casualty;

(5) Repealed by SL 1992, ch 80, § 148;

(6) If the board determines that the full amount of any taxes extended and charged against a centrally assessed railroad company cannot be realized by a sale of the property or otherwise, and the railroad is in bankruptcy or receivership, the board may settle or compromise any of the taxes for any year or years as in its judgment is in the best interest of the county;

(7) The board may abate or refund the taxes assessed or extended on any real property from which structures have been removed after the assessment date upon verification by the director of equalization;

(8) The board may abate or refund the taxes pursuant to § 10-6A-4;

(9) The board may abate or refund the taxes pursuant to § 10-13-40.4;

(10) The board may abate or refund the taxes pursuant to § 10-4-40.

The amount of any such taxes so compromised, abated, or refunded shall be apportioned pro rata among the several funds and taxing districts affected thereby. **10-18-2**

• ***Concurrence of municipal governing body required for abatement of tax within municipal corporation.*** No tax on property within a municipal corporation shall be abated without the approval of the governing body of said municipal corporation, duly filed with said application. **10-18-6**

- **Order and payment of refund--Charging to tax districts.** When any application for refund under this chapter is granted, the county auditor shall issue and deliver to the applicant a refund order on the county treasurer in the amount ordered refunded, stating therein what sum shall be refunded, and the county treasurer shall refund the same, and write opposite such taxes in his tax duplicate, the word "refunded," and the date and number of the order. The amount so refunded shall be paid in preference to other claims upon the treasury and the amount so refunded shall be charged to the state, county, municipality, township, or school corporation which may have received any part of such money, in proportion to the levies for the year for which the tax was extended. **10-18-10**
- **Payment of property tax refunds for taxes erroneously collected.** Any refund owed as the result of an abatement pursuant to this chapter or any taxpayer action brought pursuant to § 10-27-2, or any other real property tax refund which any governmental entity is required to reimburse for any real property taxes previously received, shall be due and payable to the taxpayer as follows:
 - (1) If the judicial order or resolution was entered after January first but, before September first, the refund is due on or before the second Monday of January in the year following the entry of judgment or other judicial order requiring the refund or the resolution of abatement.
 - (2) If the order or resolution was entered between September first through December thirty-first, the refund is due on or before the second Monday of January in the second year following the entry of judgment or other judicial order requiring the refund. **10-18-15**
- **Refund of taxes paid on single family dwelling--Conditions.** Any person making application under the provisions of this chapter shall be entitled to a refund of the real property taxes due or paid on his single-family dwelling according to the schedule provided in §§ 10-18A-5 and 10-18A-6, provided the following conditions are met:
 - (1) The head of a household shall be sixty-five years of age or older or shall be disabled, prior to January first of the year in which the real property is assessed and the taxes levied thereon;
 - (2) The person claiming refund shall have owned, either in fee or by contract purchase, the real property for which the refund is claimed for at least three years or have been resident of the State of South Dakota for at least five years if not qualified under the three years' ownership limitation;
 - (3) A claim for refund can only be made for a single-family dwelling as defined in subdivision § 10-18A-1(8). **10-18A-2**
- **Signing of refund claim--Delivery to proper officer.** Any claim for refund shall be signed and delivered to any officer authorized to take acknowledgments, or the county auditor or his deputy in the county where the real property is located. **10-18A-10**
- **Hearing on denial of claim--Time for demand.** Any person aggrieved by the denial by the secretary of revenue in whole or in part of reduction claimed under this chapter, may within thirty days after receiving notice of such denial, demand and shall be entitled to a hearing, upon notice, before the secretary on the question. **10-18A-13**
- **County treasurer as collector of all taxes--Collection and credit to proper funds.** The county treasurer shall be the collector of all taxes extended upon the tax list of the county, and all delinquent taxes whether levied for state, county, township, municipality, school, or other purposes, anything in the charter of any municipality to the contrary notwithstanding, and he

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shall proceed to collect the same according to law, and to place the same when collected to the credit of the proper funds. **10-21-1**

- ***Written bill sent to each property taxpayer--Contents--Annual levy sheet--Form.*** The county treasurer shall mail or transmit electronically a written tax bill to each taxpayer against whom a property tax has been assessed. The property tax bill sent to each taxpayer may reflect the breakdown of the tax by tax levies. However, the property tax bill shall at least provide a tax total for each taxing district. A definition shall be provided for any abbreviation used to describe any entity imposing a tax or special assessment. The property tax bill shall also separately state the amount of any taxes due as a result of a local decision to exceed the tax increase limits set forth in § 10-13-36 or 10-12-43 and shall be marked by an asterisk. The notice shall include the statement: "INDICATES A LOCAL DECISION TO OPT OUT OF THE TAX LIMITATION." If the local vote to increase taxes had not passed, your taxes would not have included the items marked with an asterisk (*). If the treasurer does not mail the property tax receipts described in § 10-21-14, the treasurer shall indicate in the property tax bill or a notice enclosed with the bill that the treasurer does not intend to send a receipt unless requested by the taxpayer. The county treasurer shall provide to a taxpayer a tax levy sheet, if the tax levy breakdown is not shown on the tax bill, or upon the taxpayer's request. The annual levy sheet shall contain an example of the computation of the total tax for an individual. The secretary of revenue shall prescribe a uniform form which shall be used by the county treasurer for notification of taxpayers as required by this section. **10-21-1.1**

- ***Acceptance of partial payments authorized by county commissioners--Personal property taxes paid first--Designation of real property to which partial payment applied.*** The county commissioners of any county may authorize the county treasurer to accept partial payments of taxes, upon application, thereof, any time after January first to apply against the taxes due. In cases where the applicant for partial payment owes taxes on more than one tract or parcel of real property, he must, at the time of application for the privilege of partial payment, designate the tract or parcel upon which said partial payments are to be first applied. **10-21-7**

- ***County treasurer may accept payment of prohibited taxes--Applied to oldest property tax.*** If any person, entity, or trust chooses to pay any property taxes which have not been collected pursuant to §§ 43-31-31 to 43-31-41, inclusive, such payments shall apply to the oldest property taxes and the interest thereon. If a person qualifies for a prohibition on the collection of real property taxes pursuant to §§ 43-31-31 to 43-31-41, inclusive, nothing in those sections may be construed to prohibit a county treasurer from accepting payment for the real property taxes from any person, entity, or trust that submits payment to a county treasurer. **43-31-41**

- ***Delinquency dates for real estate taxes--Interest.*** On the first day of May of the year after which taxes have been assessed, one-half of all unpaid real estate taxes are delinquent. However, all real estate taxes totaling fifty dollars or less shall be paid in full on or before April thirtieth. On the first day of each month thereafter there shall be added as interest on the delinquent taxes at the Category G rate of interest as established in § 54-3-16. If the other half is not paid on or before the thirty-first day of October of the same year, that also becomes delinquent on November first and the same interest shall attach in the same manner. If the last day of April or October falls on a Saturday or Sunday, the tax is due and payable on the last working day of that month. The tax payment shall either be received in the office on the last working day or the tax payment shall be postmarked by the last day prior to the taxes becoming delinquent. **10-21-23**

- ***Annual publication of list of delinquent taxpayers--Charges--Payment to publisher.***

During the week next preceding the third Monday in December in each year, the county treasurer shall publish in each of the official newspapers of the county, the name of each person whose mobile home taxes or taxes on a building located on a leased site are delinquent. The notice shall contain the name of each taxpayer owing delinquent mobile home taxes or delinquent taxes on a building located on a leased site and the aggregate amount, including interest and penalty, remaining unpaid. The notice does not need to include the name of any delinquent taxpayer known to the county treasurer to be dead. The county treasurer shall charge and collect in addition to the taxes, penalty and interest, the sum of one dollar against each person whose name appears in the publication. The county treasurer shall deposit the money collected into the county treasury. The county shall pay the publisher of the notice the sum of thirty-three cents for each name appearing in the notice. **10-22-2**

- ***Treasurer's power to issue distress warrant for delinquent taxes--Issuance on request by county commissioner or sheriff.*** The county treasurer may issue a distress warrant against any person whose mobile home taxes are delinquent at any time and he shall issue a distress warrant against any person whose mobile home taxes are delinquent when requested by any county commissioner or sheriff of the county. **10-22-8**

- ***Failure of sheriff to execute distress warrant as nonfeasance in office.*** The sheriff shall, upon receipt of distress warrants from the treasurer showing delinquent mobile home taxes, immediately proceed with due diligence to collect all taxes shown by each of said distress warrants to be delinquent in accordance with the provisions of §§ 10-22-14 to 10-22-27, inclusive. The failure of the sheriff to so proceed constitutes nonfeasance in office and shall subject such sheriff to removal from office in the manner provided in § 10-22-13. **10-22-12**

- ***Quarterly examination by county commissioners of unpaid tax list--Transfer of items to uncollectible tax list--Further collection effort not required.*** At their meeting during the month of July following, and every three months thereafter until all such taxes are paid or declared uncollectible, the board of county commissioners shall examine the unpaid items on the list described in § 10-22-31 and by resolution declare uncollectible any such taxes as in their judgment cannot be collected. The county auditor shall furnish the county treasurer certified copies of such resolutions in which shall be listed the name of the person against whose mobile home the tax was assessed, the taxing district in which assessed, the amount of tax and year for which assessed. The county treasurer shall make appropriate entry on his duplicate tax list that such taxes have been transferred to a special record in his office to be known as the uncollectible mobile home tax list. The county treasurer need make no further effort to collect mobile home taxes declared to be uncollectible until it is determined either by the board of county commissioners or the county treasurer that such taxes have become or may have become collectible. **10-22-32**

- ***Employment of assistance outside state for collection from taxpayer who has moved from state--Commission.*** When any person having delinquent mobile home taxes charged against him leaves the state and establishes residence outside the state, the board of county commissioners of the county wherein such taxes were levied, may employ assistance outside of this state to collect such delinquent taxes, and may pay out of the funds of the county for such collection services a commission of not to exceed fifty percent. **10-22-58**

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- ***Special assessment delinquencies certified to county treasurer--Collection by sale of property as for taxes.*** Whenever delinquent special assessments levied in any municipality shall be certified to the county auditor as provided in Title 9, it shall be the duty of such auditor immediately to certify the same to the county treasurer, and such delinquent special assessments shall be collected by the county treasurer, by sale of the lots or parcels of land so assessed at the next succeeding sale of real property for delinquent taxes, in the same manner and at the same time and place. **10-23-1**
- ***Publication or posting of notice of sale--Reconciliation of published list to tax list.*** The treasurer shall give notice of the sale of real property for taxes or assessments by publication thereof once during the week before the sale in the official newspapers of the county as designated by the board of county commissioners. If there is no newspaper published in the county, the treasurer shall give notice by written or printed notice posted at the door of the courthouse or building in which the circuit court is commonly held, or the usual place of meeting of the county commissioners, for two weeks previous to the sale. The county auditor shall reconcile the published list of unpaid taxes to the unpaid taxes in the tax list. **10-23-2**
- ***Time and place of annual sale--Adjournment from day to day--All taxable property subject to sale except certain homesteads.*** On the third Monday of December in each year, between the hours of nine a.m. and four p.m. the treasurer shall offer at public sale at the courthouse, or at the place of holding circuit court in his county, or at the treasurer's office where by law, the taxes are made payable, all lands, town lots, or other real property which shall be liable for taxes of any description for the preceding year or years, and which shall remain due and unpaid, and he may adjourn the sale from day to day until all the lands, lots, or other real property have been offered. No taxable property shall be exempt from levy and sale for taxes except as provided in § 43-31-1. **10-23-7**
- ***Private sale of property not sold at public sale--Certificate of sale--Tax receipts.*** After the tax sale shall have been closed, and after the treasurer has made his return thereto to the county auditor, if any real property remains unsold for want of bidders, the treasurer is authorized and required to sell the same at private sale at his office to any person who will pay the amount of taxes, penalty, and costs thereon for the same, and to deliver to purchasers a certificate as provided by law and to make out duplicate receipts for the taxes on such real estate, and deliver one to the purchaser and the other to the county auditor as in this title provided, with the additional statement inserted in the certificate that such real property has been offered at public sale for taxes but not sold for want of bidders, and in which certificate he is required to write "sold for taxes at private sale." The treasurer is further authorized and required to sell as aforesaid all real property in his county in which taxes remain unpaid and delinquent for any previous year or years. **10-23-12**
- ***Purchaser at sale entitled to certificate--Contents--Evidence of regularity of proceedings.*** The purchaser of any tract of real property sold by the county treasurer for taxes shall be entitled to a certificate describing the land so purchased, the sum paid, and stating the time when the purchaser will be entitled to a deed, which certificate shall be signed by the treasurer in his official capacity, and shall be presumptive evidence of the regularity of all prior proceedings. **10-23-18**
- ***Certificate of sale to county--Tax receipt not issued--Interest on certificate.*** If the county treasurer of any county bids off any real property in the name of the county, the treasurer shall make out a certificate of purchase to the county in the same manner as if sale had been

made to any other person. The certificate shall be retained by the treasurer, but no tax receipt may be issued and no amount may be due the state, or any other fund. No treasurer's commission may be paid by the county until redemption has been made from the sale or the time of redemption has expired, or until the interest of the county has been assigned. The certificate issued to the county shall bear interest at the Category G rate of interest as established in § 54-3-16. **10-23-25**

- ***Right to redeem real property sold--Amount paid--Memorandum and receipt by treasurer.*** Any person may redeem real property sold for taxes at any time before issue of a tax deed for the property, by paying the treasurer, for the use of the purchaser or the purchaser's heirs or assigns, the sum mentioned in the certificate, and interest on the sum at the rate at which the real property was sold from the date of purchase, together with all other taxes subsequently paid, whether for any year or years previous or subsequent to the sale, and interest on the taxes at the same rate from the date of the payment. The treasurer shall enter a memorandum of the redemption in the list of sales and give a receipt for the redemption to the person redeeming the property. The treasurer shall file a duplicate of the receipt with the county auditor as in other cases. The treasurer shall hold the money subject to the order of the purchaser, the purchaser's agent, or the purchaser's attorney. **10-24-1**

- ***Right to redeem property bid off by county--Tax receipts and duplicate--Notations.*** Any person may redeem property bid off by the treasurer in the name of the county at a tax sale, at any time before the tax deed has been issued by paying the amount of all delinquent taxes with penalty and interest up to the date of redemption and the costs of advertising and selling the property. Upon the payment of the taxes, penalties, interests, and costs, the treasurer shall issue a tax receipt and duplicate for the taxes, penalty, interest, and costs, which shall be entered in the treasurer's cashbook as other tax receipts. The treasurer shall also mark upon the tax duplicate in the treasurer's office opposite the description of the real estate the word, redeemed, with the date and name of the person who redeemed the property. **10-24-5**

- ***Right of part owner to make partial redemption from real property sale--Acceptance by certificate holder or decision required for completion of redemption.*** Any person claiming a part of or an undivided interest in any real property sold for taxes, if the part or undivided interest was acquired before the tax sale from which redemption is sought, may redeem the part or undivided interest at any time before a tax deed has been issued on the property by paying the just proportion of the total amount required for redemption. The just proportion is the proportion that the then existing value of the part or interest for which redemption is sought bears to the then existing value of the whole, as computed by the county treasurer at the time. If the tax sale certificate is held by a person other than the county, the redemption is not complete until the certificate holder accepts the portion so determined by the county treasurer or until the matter is decided as provided in §§ 10-24-12 to 10-24-15, inclusive. **10-24-9**

- ***Period within which tax deed may be procured.*** In the case of any real property sold for taxes and not yet redeemed, the owner or holder of the tax certificate may conduct, or cause to be conducted, proceedings to procure a tax deed on the real property, as provided by §§ 10-25-2 to 10-25-12, inclusive. The proceedings shall be initiated no sooner than three years from the date of the tax sale or at any time thereafter within six years from the date of the tax sale subject to the provisions of §§ 10-25-16 to 10-25-19, inclusive. The time period applies equally to the county or any other purchaser of the tax certificate. Any assignee of a tax certificate shall take the certificate subject to the time period of the first owner of the tax certificate. **10-25-1**

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- ***Persons entitled to notice of intention to take tax deed.*** The notice of intention to take a tax deed shall be served upon the owner of record of the real property so sold, upon the person in possession thereof, upon the person in whose name the property is taxed, upon the mortgagee named in any unsatisfied mortgage in force upon the real property of record in the office of the register of deeds of the county in which the property is located, and if the mortgage has been assigned and the assignment thereof placed upon record in the office of the register of deeds, then upon the assignee in lieu of the mortgagee named in the mortgage. The notice of intention to take a tax deed shall also be served upon any lienholder, any creditor of record and other interested person as may appear from the records in the office of the register of deeds, the county treasurer or the clerk of courts. The county treasurer may obtain any title information necessary to identify persons who appear from the records to be interested in such real property as owners, mortgagees, lienholders or otherwise. **10-25-3**
- ***Purchase of prior tax certificates required before issuance of deed.*** The person demanding the tax deed shall purchase the assignment of all prior tax certificates held by the county on the real property before the county treasurer may issue the tax deed. **10-25-10**
- ***Time allowed for completion of proceedings to procure tax deed--Cancellation of certificate and bar of lien.*** The commencement of proceedings to procure a tax deed within the periods limited in §§ 10-25-16 and 10-25-17 does not extend the lien of the holder of the tax sale certificates more than six months beyond the expiration of the periods of limitations. If any such proceedings, commenced within the time limited by §§ 10-25-16 and 10-25-17, are not completed, and the right of the party instituting the proceedings to receive a tax deed under the provisions of §§ 10-25-1 to 10-25-12, inclusive, is not fully completed and established, within six months after the expiration of six years from the date of the tax sale certificate upon which the proceedings are based; allowing, however, to purchasers of tax sale certificates assigned by the county the additional period of one year from the date of the assignment within which to commence such proceedings and six months after the expiration of the period of one year within which to complete the proceedings; then all rights under the proceedings cease and are forever barred and the county treasurer shall cancel the tax sale certificate in the manner provided in § 10-25-16. Thereupon, the lien of the holder of the tax sale certificate is extinguished and all further proceedings on the tax sale certificate are barred. **10-25-18**
- ***County action to quiet title acquired by tax deed--Prosecution by state's attorney.*** Any county that has acquired or may acquire title to any land by tax deed may commence an action in the county to quiet the title to the land. In any such action, several tracts of land, contiguous or noncontiguous, may be included in one complaint and all persons claiming any title to, interest in, or lien upon any of the lands may be joined as defendants. Upon request of the board of county commissioners of the county, the state's attorney shall promptly commence and prosecute to final judgment any such action. **10-25-24**
- ***Limitation of proceedings to contest tax deed--Defenses in action by tax-deed grantee.*** No action may be commenced by the former owner or by any person claiming under him, to recover possession of any real property which has been sold and conveyed by deed for nonpayment of taxes or to avoid such deed, unless such action is commenced within one hundred eighty days after the recording of such deed. No defense may be interposed or maintained by the former owner, or by any person claiming under him, in any action brought to quiet the title in the grantee in any tax deed, or by any person claiming under such grantee, in any tax deed issued and delivered by any county treasurer of any county in this state, unless such defense is

interposed within one hundred eighty days after the recording of such tax deed in the Office of the Register of Deeds of the county in which the real estate described in such tax deed is located.

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- **List of delinquent real property taxes compiled by county treasurer--Lands included--Information shown.** The treasurer of each county within this state may make a list of all taxes upon all real property in the county that appear from the tax records to be delinquent for a period of at least six years and that have not been satisfied by payment, or redemption, or sale of real estate, against which such taxes are assessed, to actual purchasers. The list shall include all such taxes upon any real estate that may at any tax sale have been bid in for the county, except real estate upon which the county holds school loans, and shall include all tax judgments against lands that have not been sold or bid off for the payment of the judgment. If a tax judgment stands against any such real estate, unsatisfied, the taxes and interest shall be computed as if the judgment had not been taken, and a sale of the real estate under the provisions of this chapter satisfies the judgment. The list shall contain a description of each piece or parcel of land and each lot, block, and addition, upon which taxes have not been paid as specified in this section. Opposite each description the name of the owner to whom the taxes are assessed, if known, shall be specified. If the name of the owner is unknown, a statement to that effect shall be provided. The year for which the taxes are delinquent shall be shown giving the year and the amount of tax for each year including the penalty and interest for each year and the total aggregate amount of all taxes delinquent and the penalty and interest. The year given is deemed inclusive. **10-26-1**

- **Publication of notice of county intention to take tax deed--Form.** The county treasurer shall also give notice of intention to take tax deed by the county of the property by publishing notice in the designated newspapers of the county in which the real estate is situated. The notice shall be published at least two successive weeks before November tenth of the year in which the list is prepared and filed. **10-26-5**

- **No fees to county treasurer--Agent or attorney to assist treasurer--Compensation.** The county treasurer may not charge or collect any fee for any of the services required of the treasurer in this chapter. However, the county treasurer may appoint an agent or attorney, with the approval of the board of county commissioners, at such compensation as the board may determine, to assist the county treasurer in administering the provisions of this chapter. **10-26-9**

- **Injunction against tax collection prohibited--Form of remedy.** No injunction to restrain or delay the collection of any tax claimed to be due may be issued by any court. However, in any case in which, for any reason, it is claimed that any tax about to be collected is wrongful or illegal, in whole or in part, the remedy, except as otherwise expressly provided by this code, is by payment under protest and action to recover, as provided in § 10-27-2. **10-27-1**

- **Tax payment under protest and action for recovery--Judgment for taxpayer--Apportionment of refund to taxing districts--Right of appeal.** Any person against whom any tax is levied or who may be required to pay the tax, who pays the tax prior to the tax becoming delinquent and under protest to the treasurer authorized to collect the tax, giving notice at the time of payment of the reasons for such protest may, at any time within thirty days thereafter, commence an action against such treasurer for the recovery of the tax in any court of competent jurisdiction. If the court determines that the tax was wrongfully collected, in whole or in part, for any reason going to the merits of the tax, the court shall enter judgment accordingly, and such judgment shall be paid in preference to any other claim against the county, upon the final determination of the action. A pro rata share of the money so refunded shall be charged to the

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state and each taxing district which may have received any part of the tax. The right of appeal shall exist for both parties as in other civil actions. **10-27-2**

- **(TAXATION OF RAILROADS Ch 10-28) Secretary to assess operating property.**

All property, real and personal, belonging to any railroad company in this state actually and necessarily used in the operation of its line or lines of railway in this state shall be considered as "operating property," and shall be assessed for the purposes of taxation by the secretary of revenue, and not otherwise. **10-28-1**

- **Local assessment of nonoperating property permitted.** All property of such railroad company, both real and personal, not actually and necessarily used in the operation of its line or lines of railway in this state shall be considered as "nonoperating property," and nothing in this chapter shall be so construed as to prevent the local assessment and taxation of said "nonoperating property." **10-28-10**

- **Notice to county auditors of railroad mileage and assessments--Distribution.** The Department of Revenue shall, on or before the fourth Monday in August, each year, transmit to the county auditor of each county through which any railroad runs, a statement showing the length of main track, of main line or lines, and the branches thereof and sidetracks within such county, and the assessed value based on a statewide formula that weights traffic (ton miles) fifty percent and miles of track in the county by fifty percent. The county auditor shall then distribute the value to each taxing district where the line runs on a per mile basis within the county. **10-28-16**

- **(TAXATION OF AIRLINE PROPERTY Ch 10-29) Department to assess flight property.** Flight property of airline companies operating in the state shall be assessed for the purpose of taxation by the Department of Revenue and not otherwise. **10-29-2**

- **Annual report required of airline company--Date of filing--Contents.** It shall be the duty of every airline company doing business in the state to furnish to the Department of Revenue on or before the first day of June of each year, a report under oath on forms furnished by the department according to instructions issued by the secretary of revenue with reference to property owned, leased or controlled on the first day of January of the year for which the report is made. Such report shall include the following: Name of company; nature of company; location of principal office; officers of company; annual financial statement; total tonnage of passengers, express and freight first received and finally discharged in the state; total hours flown by aircraft serving the state; total revenue ton miles in the state; total ton miles within and without the state; air flight property accounts by types of equipment; inventory of real and personal property by location, and original cost. **10-29-3**

- **Certification to county auditors of taxes assessed on flight property--Date of payment.** On or before the fourth Monday in August, the secretary of revenue shall transmit to the county auditor of each county in which there is located an airport being utilized in air commerce, as defined in § 10-29-1, a certified list of all companies assessed under the provisions of this chapter for the current year, together with the valuations and taxes assessed in each case. Such taxes shall be due upon the first day of January next following the date of certification. **10-29-16**

- **(TAXATION OF TELEPHONE COMPANIES Ch 10-33) Operating property assessed for taxation by department.** All property, real and personal, which is actually and necessarily used in providing telephone and exchange service comprising rental and toll service by means of wired circuits and otherwise in this state, and which belongs to any telephone company in this state which is not subject to the tax imposed by § 10-33-21 shall be assessed for the purpose of taxation by the Department of Revenue, and not otherwise. **10-33-10**

- ***Distribution of tax proceeds--Tax receipt.*** When taxes on telephone property located within a municipality are collected, the amount due each municipality, or school district shall be paid over by the county treasurer to the treasurer of such municipality, or school district and the treasurer shall credit the remainder to the several state and county funds. When collecting taxes on property located without the corporate limits of any municipality, the treasurer shall use a tax receipt to be called the "telephone tax receipt," and shall credit the proper amount to the state funds and the balance to the county general fund. **10-33-20**
- ***Companies providing local exchange telephone service taxed on gross receipts--Rate-Minimum tax.*** Each telephone company engaged in furnishing and providing telephone and exchange service comprising rental and toll service by means of wired circuits and otherwise shall be taxed on the basis of gross receipts at the rate of four percent. This tax does not apply to any company that does not provide local exchange telephone service to patrons. However, no telephone company operating in this state may be taxed less than an amount equal to fifty cents per year per telephone serviced. **10-33-21**
- ***(TAXATION OF PUBLIC UTILITIES Ch 10-35) Operating property assessed by department.*** All property, real and personal, belonging to or held under lease or otherwise by any light or power company, heating company, water company, or gas company as the same is defined in § 10-35-1 and used by it exclusively in the operation of its line or lines in this state, except such as is held under lease and used in such manner as to make it taxable to the owner under the general property tax laws, shall be assessed annually for taxation by the Department of Revenue, and not otherwise. **10-35-2**
- ***County commissioners' allocation of assessed valuations to taxing districts--Notice to company.*** It shall be the duty of the county auditor after receiving a statement from the Department of Revenue setting forth the valuation as finally equalized of any light or power, heating, water, natural or artificial gas company owning and operating a power or pipeline in his respective county, to turn such statement over to the board of county commissioners, who at its first meeting after receiving such statement, shall make and enter in the proper record an order stating and declaring the length of the line or lines of each light or power, heating, water, natural or artificial gas company running through or extending into each township or lesser taxing district of such county, together with the valuation, based on the value per mile as certified by the Department of Revenue and the amounts so extended shall constitute the taxable value of such property for all taxable purposes and the county auditor of such county shall within three days after the making of such order transmit a copy of the same to the secretary or accounting officer of such company. **10-35-13**
- ***Map of lines filed with county auditor--Use in allocating valuation to taxing districts.*** Every light and power, heating, water, natural or artificial gas company shall keep on file with the county auditor of each county through or into which its line or lines run, a map or blueprints showing correctly the location of its line or lines in such county and giving the length of the same in each governmental subdivision thereof and the same shall be used by the county commissioners in determining the length of line and valuation in each township or lesser taxing district, as provided for in § 10-35-13. **10-35-14**
- ***(TAXATION OF RURAL ELECTRIC COMPANIES Ch 10-36) Tax levied on electric energy delivered--Credit.*** There is levied on each company subject to §§ 10-36-1 and 10-36-2, as of May first of each year, a tax of \$0.0016 per kilowatt hour of retail electric energy and a tax of \$0.0008 per kilowatt hour of wholesale electric energy delivered to its customer within

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the State of South Dakota during the preceding calendar year. Each company taxed pursuant to this section shall receive a credit against the taxes due and payable under this section if it has contracted jointly or severally for the use of property in this state owned, held under lease, or otherwise by a light or power company defined in § 10-35-2, a consumer power district organized pursuant to chapter 49-35, or a municipal power agency organized pursuant to chapter 9-41A if the property is assessed for taxation pursuant to chapter 10-35, subject to an excise tax as provided in § 49-37-13, or taxed as provided in § 9-41A-36. A company taxed pursuant to this section may deduct as a credit from the taxes to be paid under this section, that portion of the taxes included in the payments by the company to such organizations for the use of the property described in the contract. **10-36-6**

- ***(TAXATION OF PIPELINE COMPANIES Ch 10-37) Statement required annually as to real estate owned or used.*** Every pipeline company required by law to report to the Department of Revenue under the provisions of this chapter shall, on or before April fifteenth in each year make to the Department of Revenue, a detailed statement showing the amount of real estate owned or used by it on December thirty-first next preceding for pipeline purposes, the county in which said real estate is situated, including the rights-of-way, pumping or station grounds, buildings, storage or tank yards, equipment grounds for any and all purposes, with the estimated actual value thereof, in such manner as may be required by the secretary of revenue. **10-37-4**

- ***Property subject to assessment--Earnings and other evidence considered.*** The property shall be valued at its fair market value, and the assessment shall be made upon the fair market value of the entire pipeline property within the state and shall include the rights-of-way, easements, the pipelines, stations, grounds, shops, buildings, pumps and all other property, real and personal, exclusively used in the operation of the pipeline. In assessing any pipeline company and its equipment, the Department of Revenue shall take into consideration the gross earnings and the net earnings for the entire property, and per mile, for the year ending December thirty-first preceding, and any and all other matters necessary to enable the department to make a just and equitable assessment of pipeline property. **10-37-8**

- ***County commissioners' allocation of assessed valuation to taxing districts--Notice to company.*** It shall be the duty of the county auditor, after receiving said statement from the Department of Revenue setting forth the valuation as finally equalized of any pipeline company owning and operating a pipeline in his respective county, to turn such statement over to the board of county commissioners, who at its first meeting after receiving such statement, shall make and enter in the proper record an order stating and declaring the length of such pipeline or lines of each pipeline company running through or extending into each township or lesser taxing district of such county, together with the valuation as certified by the Department of Revenue, which shall constitute the assessed valuation of said property for taxing purposes; and the taxes on said property when collected by the county treasurer, shall be disposed of as other taxes. The county auditor of such county shall within three days after the making of such order transmit a copy of the same to the secretary or accounting officer of such company. **10-37-10**

- ***Local assessment of oil company property other than pipelines.*** All other property of oil companies described in § 10-37-12, other than pipeline up to the line of any terminal or pumping station premises, including real estate and all buildings, facilities, or equipment thereon shall be assessed for taxation by the director of equalization in the taxing district in which the same is located. **10-37-14**

- ***Notice of valuation of centrally assessed property.*** Notwithstanding any provision of any law to the contrary, the Department of Revenue shall send a notice, by registered or certified mail not later than the first Monday of September of each year, to the county auditor of each county where any centrally assessed property is located which is subject to taxation under the provisions of chapters 10-28, 10-29, 10-33, 10-34, 10-35, 10-37, and 49-37. The notice shall advise the county auditor of the final assessed valuation of each such utility's taxable value within the county for the applicable tax year. **10-38-29**
- ***Appeal of valuation of centrally assessed property--Notice of appeal.*** Any public taxing district, governmental subdivision of this state, or affected utility feeling aggrieved by any decision of the Department of Revenue as to the final assessed valuation of the utility, or the equalization of the utility's valuation, or from any decision relating to the allocation or distribution of such utility's taxable property among the taxing districts or governmental subdivisions of this state may appeal such decision to the sixth judicial circuit court in Hughes County. Any utility affected by such appeal shall be a party to such proceeding and notice of such appeal shall be given to such utility. Any governmental subdivision or public taxing district affected by the appeal of any utility shall be entitled to notice of such proceedings in writing by the appealing party and the affected taxing district shall be entitled to intervene in such appeal. **10-38-30**

PUBLIC ANNOUNCEMENTS

- ***Purchase of advertising time permitted for public announcements.*** Any office, agency, board, or commission of this state or any of its counties, townships or municipalities is hereby authorized to purchase radio and television advertising time to broadcast any announcement found to be in the public interest. **1-25A-1**
- ***Broadcast not equivalent of legal notice.*** Nothing in § 1-25A-1 shall authorize the purchase of radio and television advertising time to broadcast any legal notice which is required to be given by law, nor shall it be construed to give radio and television legal publication status. **1-25A-2**

PUBLICATION

- ***(BUDGETS) Resolution adopting provisional budget--Publication of adopted budget.*** The board of county commissioners shall, before October first in each fiscal year, before finally determining or fixing any of the tax levies for the following fiscal year and after all amendments, corrections, changes, alterations, eliminations, insertions, and additions have been made to the provisional budget, pass and adopt a resolution approving and adopting the provisional budget as the annual budget of appropriations and expenditures for the county, its institutions and agencies for the following fiscal year. The resolution may not thereafter be subject to reconsideration or revision. No amendments, corrections, changes, alterations, insertions, or additions may thereafter be made to the annual budget. Any changes in the provisional budget incorporated into the adopted annual budget shall be published in the minutes of the meeting at which the provisional budget is adopted as the annual budget. **7-21-12**
- ***(NOTICE TO CONSIDER BUDGET) Publication of notice of commissioners' budget meeting.*** After the provisional budget has been filed in the office of the county auditor, the board of county commissioners shall publish a notice once a week for two successive weeks in the official newspapers of the county. The last notice shall be published before the first Tuesday

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in September, and the notice shall state where and when the board will meet. The board shall meet on the first Tuesday in September for the purpose of considering the budget and the various estimates, items, schedules, amounts, appropriations, and matters contained in the provisional budget. If the board meets prior to the first Tuesday in September for such purpose, the board shall designate certain days in the minutes of the board and the notice. However, the board shall also hold the hearing required on the first Tuesday in September. It shall also be stated in the notice that at any meeting of the board held for the purpose of considering the budget, any interested person may appear, either in person or by representative, and be heard and given an opportunity for a full and complete discussion of all the purposes, objects, items, schedules, appropriations, amounts, estimates, and matters set forth and contained in the provisional budget. **7-21-8**

- **(COUNTY DRAINAGE) Publication of notice of hearing on proposed drainage plan.**

If it receives a proposed drainage plan drafted by the drainage commission or if it prepares its own plan because no commission exists, which plan includes proposed official controls, the board of county commissioners shall direct the county auditor to publish, at least once a week for at least two successive weeks in a newspaper of general circulation in the area affected, a notice of hearing, the time and place when the hearing will be held, and a statement that all interested persons may appear and be heard. **46A-10A-22**

- **(POOR RELIEF) Names of poor relief recipients not published.** The name of any person receiving or who is entitled to poor relief as provided in chapter 28-13 may not be published as a part of the minutes of county commissioners meetings as provided in § 7-18-3. **7-18-3.1**

- **(ORDINANCES) Reading, signing, filing, and publication required.** The title of all ordinances shall be read twice with at least five days intervening between the first and second reading. Any ordinance shall be signed by the chairman of the board or the acting chairman, filed with the county auditor and published once. However, an ordinance incorporating and adopting comprehensive regulations or a code promulgated, approved, and published by a recognized and established national organization prescribing building, electrical, plumbing, safety, fire, or health regulations need not be published in a newspaper, but, upon adoption of such an ordinance, the auditor shall publish a notice of the fact of adoption once a week for two successive weeks. **7-18A-5**

- **(PLANNING & ZONING) Filing of board action adopting comprehensive plan--Publication of notice of fact of adoption--Public inspection.** The action of the board on the plan shall be filed with the county auditor. A notice of fact of the adoption shall be published once in a legal newspaper of the county and take effect on the twentieth day after its publication unless the referendum is invoked. Any notice of fact of adoption published under the provisions of this chapter shall contain a notification that the public may inspect the entire comprehensive plan at the office of the county auditor during regular business hours. If such a zoning or subdivision ordinance is adopted, the ordinance is subject to the provisions of § 7-18A-5 as a comprehensive regulation unless the referendum is invoked. **11-2-21**

- **(REFERENDUM) Publication of referred measure--Contents.** The auditor shall have the entire referred ordinance or resolution published once a week for two successive weeks immediately preceding the election. Such publication shall include a notice stating the day of election on which the ordinance or resolution will be submitted to the voters. If only a portion thereof is covered by the petition, the notice will state what portion will be submitted. **7-18A-20**

PUBLIC DEFENDER Ch 7-16A

- ***Establishment of office by commissioners' resolution.*** Each board of county commissioners may, by resolution, establish and maintain an office of public defender to fulfill the requirements of § 23A-40-7. **7-16A-1**
- ***Joint office established by two or more counties.*** If a board of county commissioners elects to establish and maintain an office of public defender, it may join with the board of county commissioners of one or more other counties to jointly establish and maintain an office of public defender. In that case the participating counties shall be treated for the purpose of this chapter as if they were one county. **7-16A-2**
- ***Provisions by establishing board for office.*** If a board of county commissioners elects to establish an office of public defender it shall:
 - (1) Prescribe the qualifications of the public defender, the term of office and the rate of annual compensation; and
 - (2) Provide for the establishment, maintenance, and support of the office. **7-16A-3**
- ***Advisory committee to be established--Composition--Chairman.*** A public defender advisory committee shall be established whenever an office of public defender is established. A committee shall consist of the following members:
 - (1) One person not admitted to the practice of law, not an employee of the county, and not a law enforcement officer, who shall be appointed by the county commissioners of the originating county;
 - (2) Two members of the board of county commissioners of the county, or if two or more counties are participating, one commissioner from each county, who shall be appointed by the chairman of the board of county commissioners of each county;
 - (3) Two attorneys practicing in the county or one attorney, if available, from each county, if two or more counties are participating in the plan, who shall be appointed by the presiding judge of the county's circuit court.The committee shall elect one of its members as chairman. **7-16A-4**
- ***Employment of personnel for defender's office--Administration.*** If an office of public defender has been established, the board of county commissioners may employ, on recommendation by the public defender and in the manner and at the compensation prescribed by the advisory committee, such assistant public defenders, clerks, investigators, stenographers, and other persons as the advisory committee considers necessary for carrying out the public defender's duties. The employees shall serve at the pleasure of the public defender. Such employees and the public defender shall, for administrative purposes, be considered to be employees of the county which administers the public defender fund. **7-16A-6**
- ***Qualifications of assistant defenders--Assignment to cases.*** An assistant public defender, before employment, must be licensed to practice law in this state and be competent to counsel and defend a person charged with a crime. A public defender may assign and substitute his assistant public defenders to cases referred to the office of the public defender without prior approval of the court. **7-16A-7**
- ***County appropriations for public defender fund--Administration and accounting for fund--Private contributions.*** The board of county commissioners of each county participating in a public defender plan shall annually appropriate money from the general fund to administer the public defender. The funds appropriated by the participating counties shall be placed in a public defender fund which shall be administered by the county originating the public defender

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plan, unless otherwise agreed upon by the participating boards of county commissioners. Private contributions for the support of the office may be accepted and placed in the fund. The county administering the fund shall give an annual accounting to other participating counties. **7-16A-16**

- ***Monthly report to circuit court for setting liens--Disposition of funds collected from liens.*** Each public defender shall submit, at least monthly, to the presiding judge of his circuit court, a list of cases disposed of by his office for the purpose of setting the liens required by § 23A-40-9. Any funds collected from public defender liens pursuant to the provisions of § 23A-40-9 shall be placed in the public defender fund to carry out the provisions of this chapter.

7-16A-17

- ***Persons to be represented--Services provided.*** A public defender shall represent any indigent person who is:

- (1) Detained by a law enforcement officer without charge or judicial process;
- (2) Arrested or charged with having committed a crime or of being a juvenile delinquent;
- (3) Detained under a conviction of a crime, juvenile delinquency, or mental illness; or
- (4) Otherwise an indigent person entitled to representation by law, to the same extent as a person having his or her own counsel, and with the necessary services and facilities of representation, including investigation and other preparation, authorized or approved by a court.

7-16A-9

- ***Proceedings in which indigents represented--Co-counsel.*** An indigent person who is entitled to be represented by a public defender shall be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his own counsel would be entitled to be represented by an attorney, including the revocation of probation or parole, appeal, and any other post-conviction proceeding that the public defender and the indigent consider appropriate, unless the court in which a proceeding is brought determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his own expense. Representation may include co-counsel or associate counsel in appropriate cases.

7-16A-10

PUBLIC RECORDS AND FILES

- ***Public records open to inspection and copying.*** Except as otherwise expressly provided by statute, all citizens of this state, and all other persons interested in the examination of the public records, as defined in § 1-27-1.1, are hereby fully empowered and authorized to examine such public record, and make memoranda and abstracts therefrom during the hours the respective offices are open for the ordinary transaction of business and, unless federal copyright law otherwise provides, obtain copies of public records in accordance with this chapter. Each government entity or elected or appointed government official shall, during normal business hours, make available to the public for inspection and copying in the manner set forth in this chapter all public records held by that entity or official. **1-27-1**

- ***Public access to records of former Governors and lieutenant governors.*** The records of any Governor and any lieutenant governor are the property of the state and shall be transferred to his or her successor or the state archivist upon leaving office. Once transferred, public access to such records is subject to the provisions of chapter 1-27. **1-27-19**

RACING

- ***Application for new site submitted to county commissioners--Notice to county auditors--Provision for vote.*** An application for a license to conduct the racing of horses or dogs on any new site which has not before July 1, 1967, been utilized for the conduct of racing horses or dogs, shall first be submitted, not less than ninety days prior to the next general election, to the board of county commissioners of the county where the site is to be located. The board of county commissioners shall notify the county auditor of each county which has any portion of its border within fifteen miles of the proposed site. Upon receipt of such notice, the county auditor of each county shall take the necessary action to provide that a vote shall be conducted at the next general election for the purpose of approving or disapproving such proposed site. **42-7-61**

REAL PROPERTY

- ***Exchange of isolated tracts with state or United States--Advertising and appraisal not required.*** A board of county commissioners may, with the approval of the appropriate department of the State of South Dakota or the federal government, exchange scattered and isolated tracts and sections of land belonging to such county for lands belonging to the State of South Dakota or to the United States Government, value for value, and may execute proper conveyances thereof in manner and in form as provided by existing laws but without the necessity of complying with any statute requiring advertising, notice or appraisal and may accept in return therefor a proper instrument of conveyance to the county of the lands for which such lands are exchanged. **7-29-15**
- ***Acquisition of land and exchange with municipality.*** Any county of this state is hereby authorized and empowered to purchase property, with money from its general fund or otherwise, and thereafter to transfer and convey such property so purchased to any municipal corporation within or partly within the boundary of such county in exchange for property owned by such municipality, provided the property so transferred and conveyed to the county is for a public use and purpose. Said transfers of property shall be upon such terms and conditions as may be determined and agreed upon by the respective governing bodies thereof. **7-29-20**
- ***Exchange of national forest lands with United States--Notice.*** The various counties of this state are hereby empowered to take advantage of the act of Congress of March 20, 1922, (42 U.S. Stat., 465) and acts amendatory thereto, relating to the consolidation of national forests, and for that purpose the board of county commissioners of any county shall have authority to sell or otherwise dispose of lands acquired by such county through tax sale proceedings located within the boundaries of any forest or within five miles of the boundaries of any national forest which are chiefly valuable for national forest purposes, to the United States Government, at private sale at such price and upon such terms and conditions as the said board of county commissioners may deem advisable and to the best interests of the county. Before any such sale or transfer is effected, notice of such contemplated sale or transfer shall be given as required by the said acts of Congress and such notice shall be in lieu of any notice required by the laws of this state relating to the sale of such lands. **7-29-16**
- ***Reservation of mineral rights in national forest exchanges.*** All mineral rights to such lands sold and conveyed to the United States Government pursuant to § 7-29-16 shall be reserved to the county, and such deeds of conveyances shall provide therein that any and all mineral rights in and to said lands are expressly reserved to the county. **7-29-17**

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- ***Lease or conveyance of real property to provide health care.*** By majority vote of its members, a board of county commissioners may lease or convey, upon such conditions as the board shall set forth, real property for the purpose of providing health care. **7-29-27**
- ***Donation of land to state or first or second class municipality for parks or recreation area.*** By unanimous vote of its members, a board of county commissioners may give, upon such terms and conditions as may be agreed to, any of its lands suitable for parks or recreation areas to the State of South Dakota or to first and second class municipalities in the manner provided by chapter 9-38 or chapter 41-2 for use as state parks, recreation areas, or city parks. **7-29-25**
- ***Sale or lease of real property for industrial development or public purposes--Terms of lease.*** Every county shall have power to lease or sell on a negotiated basis and to convey any of its real property to a municipality or the state or another county, or to a nonprofit local industrial development corporation as defined by § 7-29-24 and located therein, to be used by such grantee for an authorized public purpose or industrial development purpose as enumerated in § 9-54-1. Such lease or sale shall be authorized on the terms and in the manner provided by resolution of the county commissioners. **7-29-23**
- ***Donation of land and rights of way to United States for waterworks.*** Whenever the board of county commissioners determines that it is in the public interest, and, in particular, to the interest of the county, said board is hereby authorized to donate by quitclaim deed to the United States of America the vested and after-acquired title to any lands now, or hereafter, belonging to such county, whether such lands be acquired by grant, donation, tax-title proceedings, or otherwise, for sites for dams, reservoirs, and power plants; and said board is further authorized to donate to the United States, over and upon any such acquired lands, easements and rights of way for canals, laterals, tunnels, roads, campsites, and telephone and transmission lines necessary to the construction and operation of any irrigation works or power plants constructed by or under the authority of the United States, and all conveyances by the county of such lands shall be made subject to the grant of such easements and rights of way. All conveyances shall be executed in the name of the county by the chairman of the board of county commissioners and attested by the county auditor. **7-29-18**

RECORDS

- ***Accounting records maintained--Destruction.*** The county auditor is required to keep and maintain such accounting records as set forth in the accounting manual prescribed by the auditor-general. However, the county auditor may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value. **7-10-2**
- ***Recording existing drainage rights--Information required--Disputing rights--Appeals--Recording final decision.*** Any natural drainage right lawfully acquired by the owner or owners of either a dominant or servient estate prior to July 1, 1985, is deemed vested. Any drainage right lawfully acquired prior to July 1, 1985, arising from drainage which is natural with man-made modifications or entirely man-made is also deemed vested, provided the right is recorded with the appropriate county register of deeds within seven years of July 1, 1985. Registration shall include the following information:
 - (1) A legal description of any dominant estate or servient estate involved with the drainage right;
 - (2) The general course and direction of flow of water by means of the drainage right;

(3) The amount of time the drainage right has existed, if known, or, if not known, a statement to that effect;

(4) The general course and direction of natural flow if different from that of the right being registered; and

(5) The nature of the man-made modifications to the natural drainage.

The county register of deeds shall provide the board with a quarterly listing of such registrations, prior to the quarterly meetings of the board. The board shall include the list in its minutes which are published pursuant to § 7-18-3. A registration may include more than one drainage system. Any drainage begun prior to July 1, 1988, and challenged by an affected landowner in a court of law or before a board or commission within two years of filing, may not become vested until and unless a final decision has been reached in favor of such drainage. Any commission decision may be appealed to the board within twenty days. Any board decision may be appealed to the circuit court of the county wherein the dispute arose within twenty days. Any circuit court decision may be appealed in the same manner as any other circuit court decision. If such final decision has been reached, including final decision on any appeal, the owner of the drainage right shall record the final decision within thirty days in order for the right to become vested. No county, township, or municipality is required to register its natural drainage rights. **46A-10A-31**

- **Local governments exempt from recording requirements.** No county, municipality, or township may be required to record any highway right-of-way as a drainage right pursuant to this chapter. **46A-10A-31.2**

- **Copy of recorded vested right to department.** After a vested drainage right is recorded with a county register of deeds under the provisions of § 46A-10A-31, the register of deeds shall transmit a copy of the registration to the Department of Agriculture and Natural Resources. **46A-10A-32**

- **Local government records destruction board.** The county may create a local government records destruction board to develop record management plans for the consideration of the state records destruction board. The local board shall consist of a county commissioner, the auditor, the treasurer, and the register of deeds. **7-7-29**

- **Auditor as clerk of county commissioners--Preservation and destruction of records.** The county auditor is the clerk of the board of county commissioners and shall keep an accurate record of its official proceedings and carefully preserve all of the documents, books, records, maps, and other papers required to be deposited or kept in his office and carefully perform such other acts and duties as are required by law. However, the county auditor may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value. **7-10-1**

- **Public records open to inspection and copying.** Except as otherwise expressly provided by statute, all citizens of this state, and all other persons interested in the examination of the public records, as defined in § 1-27-1.1, are hereby fully empowered and authorized to examine such public record, and make memoranda and abstracts therefrom during the hours the respective offices are open for the ordinary transaction of business and, unless federal copyright law otherwise provides, obtain copies of public records in accordance with this chapter. Each government entity or elected or appointed government official shall, during normal business hours, make available to the public for inspection and copying in the manner set forth in this chapter all public records held by that entity or official. **1-27-1**

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- ***Records declared confidential or secret.*** Section 1-27-1 shall not apply to such records as are specifically enjoined to be held confidential or secret by the laws requiring them to be so kept. **1-27-3**
- ***Format of open record.*** Any record made open to the public pursuant to this chapter shall be maintained in its original format or in any searchable and reproducible electronic or other format. This chapter does not mandate that any record or document be kept in a particular format nor does it require that a record be provided to the public in any format or media other than that in which it is stored. **1-27-4**
- ***Records management programs--Definition of terms.*** Terms used in §§ 1-27-9 to 1-27-18, inclusive, mean:
 - (1) "Local record," a record of a county, municipality, township, district, authority, or any public corporation or political entity whether organized and existing under charter or under general law, unless the record is designated or treated as a state record under state law;
 - (2) "Record," a document, book, paper, photograph, sound recording, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in §§ 1-27-9 to 1-27-18, inclusive;
 - (3) "State agency" or "agency" or "agencies," includes all state officers, boards, commissions, departments, institutions, and agencies of state government;
 - (4) "State record," :
 - (a) A record of a department, office, commission, board, or other agency, however designated, of the state government;
 - (b) A record of the State Legislature;
 - (c) A record of any court of record, whether of state-wide or local jurisdiction;
 - (d) Any other record designated or treated as a state record under state law. **1-27-9**
- ***Records as property of state--Damage or disposal only as authorized by law.*** All records of public officials of this state required to be kept or maintained by law are the property of the state and may not be mutilated, destroyed, transferred, removed, or otherwise damaged or disposed of, in whole or in part, except as provided by law. **1-27-10**
- ***Warrant required for payment of claim against county.*** No claim against the county shall be paid otherwise than upon the allowance of the county commissioners upon the warrant of the county auditor, except one authorized to be allowed by some other person or tribunal, in which case the claim shall be paid upon the warrant of the county auditor upon the proper certificate of the person or tribunal allowing the same. **7-22-2**
- ***Warrant required for disbursement of county funds--Contents.*** No public money shall be disbursed by the county commissioners or any of them, but the same shall be disbursed by the county treasurer upon the warrant of the county auditor specifying the name of the party entitled to the same, on what account, and upon whose allowance, if not fixed by law. **7-22-3**
- ***Registration of warrants not paid for want of funds.*** If any warrant is presented to the treasurer for payment and no funds in the treasury have been appropriated for that purpose, the treasurer shall enter the warrant in the warrant register for payment in the order of presentation. The treasurer shall endorse on the warrant the registry number, date of registration, and the

words "Not paid for want of funds," and sign the endorsement. **7-22-9**

RECYCLING AND WASTE MANAGEMENT DISTRICTS Ch 34A-16

- ***County or municipality cooperation in the planning, construction, or operation of solid waste facilities.*** For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of solid waste facilities pursuant to this chapter, any county or municipality included in a district may, upon such terms, with or without consideration, as it may determine:

- (1) Lend or donate money to the district;
- (2) Cause water, sewer, or drainage facilities or any other facilities which it is empowered to provide, to be furnished adjacent to or in connection with solid waste facilities;
- (3) Dedicate, sell, convey, or lease any of its interest in property or grant easements, licenses, or any other rights or privileges therein to the district without regard to public bidding or any other restrictions on disposition of public property;
- (4) Furnish, dedicate, close, pave, install, grade, regrade, plan, plat, or replat streets, roads, roadways, and walks to such solid waste facilities;
- (5) Do all things that counties and municipalities singly or in combination are allowed by law to do relating to the management of solid waste and that are necessary or convenient to aid and cooperate with the district in the planning, undertaking, construction, or operation of solid waste facilities, including providing labor or services to the district; and
- (6) Enter into agreements with the district regarding action to be taken by the county or municipality pursuant to the provisions of this section. **34A-16-12**

REFERENDUM Ch 7-18A - See ORDINANCES

- ***Legislative decision of board subject to referendum--Administrative decision not subject to referendum.*** Any legislative decision of a board of county commissioners is subject to the referendum process. A legislative decision is one that enacts a permanent law or lays down a rule of conduct or course of policy for the guidance of citizens or their officers. Any matter of a permanent or general character is a legislative decision. No administrative decision of a governing body is subject to the referendum process, unless specifically authorized by this code. An administrative decision is one that merely puts into execution a plan already adopted by the governing body itself or by the Legislature. Supervision of a program is an administrative decision. Hiring, disciplining, and setting the salaries of employees are administrative decisions. **7-18A-15.1**

- ***Majority vote required to approve referred measure--Effective date.*** No referred ordinance or resolution shall become operative unless approved by a majority of the votes cast for and against the same. If approved, it shall take effect upon completion of the canvass of the election returns relating thereto. **7-18A-22**

- ***Special election on referendum petition--Submission at primary or general election.*** A special election shall be held within sixty days after the filing of a petition under § 7-18A-15. However, if the petition is filed within three months prior to a primary, general, or statewide special election, the ordinance or resolution may be submitted at the primary, general, or statewide special election. **7-18A-19**

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REGISTER OF DEEDS - GENERAL DUTIES AND RESPONSIBILITIES Ch 7-9

• ***Duty to keep records of instruments--Destruction of unneeded records.*** The register of deeds shall keep full and true records in proper books, of all deeds, mortgages, and other instruments authorized by law to be recorded in the register of deeds' office, and records of all chattel mortgages, bills of sale, conditional sale contracts, and other instruments authorized by law to be filed in the register of deeds' office, if the person offering any of such instruments pays the fee required by law for recording or filing the same. Any document presented for recording with the register of deeds shall contain a typed, stamped, or printed legend stating the words, prepared by, followed by the name, address, and telephone number of the preparer. The following documents are exempt from this requirement:

- (1) Documents dated prior to July 1, 1994;
- (2) Documents prepared by the United States of America, this state, or any instrumentality, agency, or political subdivision of either; and
- (3) Court certified documents.

The register of deeds may destroy those records that the state records destruction board, pursuant to § 1-27-19, has declared to be of no further administrative, legal, fiscal, research, or historical value. **7-9-1**

• ***Recording, filing, and indexing of records by microfilming or computerization.*** The functions of the register of deeds, including but not limited to, the recording of instruments, liens, satisfactions, and releases and the filing of records, as well as the index to any such record, may be accomplished by means of microfilming or computerization, as provided in § 6-1-11. **7-9-1.1**

• ***Fees--Real estate documents to conform to format standards--Exception.*** The register of deeds shall charge and receive the following fees:

(1) For recording deeds, mortgages, and all other instruments not specifically provided for in this section or this code, the sum of thirty dollars for the first fifty pages plus two dollars for each additional page or fraction thereof exceeding fifty pages. A real estate document recorded with the register of deeds shall conform to § 43-28-23, but may not be rejected for recording if the document does not comply with § 43-28-23 unless it is not sufficiently legible or cannot be reproduced as a readable copy using the register of deeds' current method of reproduction;

(2) For a certified copy of any instrument of record, including certificate and official seal, the sum of five dollars for the first page plus one dollar for each additional page or fraction thereof, and for an uncertified copy one dollar for each page. The fee applies to each copy whether it is a hard copy, microfilm, electronic copy, or facsimile transmission. In addition to the fee for a certified copy of the record of any birth, there is an additional charge of two dollars for each copy requested, which shall be submitted on a monthly basis to the state treasurer to be deposited in the children's trust fund;

(3) For filing and indexing a bill of sale, seed grain lien, or thresher's lien, the sum of thirty dollars for the first fifty pages plus two dollars for each page or fraction thereof exceeding fifty pages. No fee may be charged for filing any satisfaction or termination of any instrument as prescribed in this subdivision;

(4) For recording oil, gas, and mineral leases, and other recorded documents relating to mineral or oil and gas lease exploration and development, the sum of thirty dollars for the first fifty pages plus two dollars for each page or fraction thereof exceeding fifty pages;

(5) For recording an easement filed by any entity created by chapter 34A-5, 46A-

3A, or 46A-9 or any nonprofit engaged in the treatment, distribution, and sale of water to rural consumers or any document filed by the Department of Transportation pertaining to the acquisition or disposal of highway right-of-way or lands declared surplus, the sum of twenty dollars for the first three pages plus two dollars for each additional page or fraction thereof; and

(6) Notwithstanding the provisions of subdivision (2) of this section, the board of county commissioners shall fix by resolution the fees to be paid by licensed abstracters of the county or by any person who has passed the written examination established by the Abstracters' Board of Examiners pursuant to § 36-13-11 for uncertified copies of recorded instruments, which fee may not exceed the actual cost to the county for providing such copies. The register of deeds may not charge a fee for discharging or canceling any personal property lien. **7-9-15**

- ***Recording of judgment where title to real property determined.*** In case the title to real property is determined, a certified copy of the judgment of the court shall be recorded in the office of the register of deeds of the county in which such real estate is situated. **21-36-21**

- ***Action authorized--Purposes of action--Persons authorized to maintain action--Parties defendant.*** An action may be maintained by any person or persons having or claiming to have an estate or interest in or lien or encumbrance upon any real property, whether in or out of possession thereof and whether such property is vacant or occupied, against any person or persons claiming an estate or interest in or lien or encumbrance upon the same or any part thereof for the purpose of determining such adverse interest, estate, lien, or encumbrance, and against all persons who appear from the records in the office of the register of deeds, the county treasurer, clerk of courts, or other public records in the county where such land lies to have or ever to have had any estate or interest in or lien or encumbrance upon such real property or any part thereof and against personal representatives, heirs at law, devisees, legatees, and creditors of any such person or persons who may be deceased, whether such personal representatives, heirs at law, devisees, legatees, and creditors be known or unknown, and generally against all persons unknown who may have or claim to have any estate or interest in or lien or encumbrance upon such real property or any part thereof for the purpose of quieting the title to such real property and of determining such estate, interest, lien, or encumbrance, and in such action any number of persons may be joined as plaintiffs, whether holding as tenants in common, joint tenants, partners, or in severalty, where the relief demanded in the complaint is common to all of such plaintiffs. **21-41-1**

- ***Lis pendens notice recorded by register of deeds--Destruction of records.*** Upon the filing of the summons and complaint, a notice of pendency of the action shall be recorded in the office of the register of deeds of the county in which the action is pending; the lis pendens so recorded shall be filed and recorded by the register of deeds in the same manner and as required by law for the recording of instruments concerning real property. However, the register of deeds may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value. **21-42-9**

- ***Officers authorized to take proof or acknowledgment within circuit, county, or municipality.*** The proof or acknowledgment of an instrument may be made anywhere in this state before a judge of the circuit court, a clerk of the circuit court, a magistrate of the circuit court, or a United States magistrate. Within a county or municipality for which the officer was elected or appointed, the proof or acknowledgment of an instrument may be made before a county auditor, a register of deeds, a mayor, or a municipal finance officer. **18-4-2**

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- ***Officers authorized to administer oaths.*** The following officers may administer oaths:
 - (1) Supreme Court justices, circuit judges, magistrates, notaries public, the clerk and deputy clerk of the Supreme Court, and clerks and deputy clerks of the circuit court, within the state, and federal judges, and federal magistrates;
 - (2) Members of the Legislature, while acting as a member of any legislative committee, when examining persons before the legislative committee;
 - (3) The county auditor, the county treasurer, the register of deeds, and the deputy of each, within their respective county;
 - (4) Mayors, town board presidents, municipal finance officers, deputy municipal finance officers, and township clerks, within their respective municipality or township;
 - (5) Sheriffs and deputies if authorized by law to select commissioners or appraisers, or to impanel juries for the view or appraisal of property, or are directed as an official duty to have property appraised, or take the answer of garnishees;
 - (6) Conservation officers for the purposes of taking a written statement pursuant to § 23A-2-1 for any offense of Title 41; and
 - (7) Other officers in cases specifically provided by law. **18-3-1**
- ***Certification, acknowledgment and recording of plats.*** Every plat provided for in this chapter shall be certified by the registered land surveyor, who shall attach an official seal thereto as specified in § 36-18A-45 as being in all respects correct. The landowner, or the landowner's duly authorized agent, shall certify that the plat has been made at the request and under the direction of the landowner for the purposes indicated therein, that he or she is the owner of all the land included therein, and that development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations. The landowner certification shall be acknowledged before some officer authorized to take the acknowledgment of deeds and, with the certificate of such acknowledgment, shall be endorsed on or attached to the plat and be recorded as a part thereof in the office of the register of deeds of the proper county. No such plat may be recorded until all the provisions of this section have been fully complied with, and upon certification and recordation shall be used as the legal description as provided by § 43-21-4 for all purposes, including constructive notice. **11-3-4**
- ***Filing and recording of report on survey and landmarks--Incorporation of report in judgment.*** The surveyor shall make a full and complete report of his action to the court and therein accurately describe the landmarks so placed and define their location as nearly as practicable. Such report shall be filed with the clerk as one of the records of the action and a certified copy of the same may be filed in the office of the register of deeds of any county in which any of the land affected is located and thereafter shall be constructive notice of its contents. The judgment shall contain a recital approving such report in whole or in part and may adopt said report as a part of the judgment by incorporating it therein or attaching it as an exhibit thereto. **21-40-7**
- ***Levy on real property--Recording of notice.*** A levy under a writ, warrant, or execution upon real property, must be made by the officer filing with the register of deeds of the county in which the property is situated, a notice of the levy subscribed by him, stating the names of the parties to the action, the amount of the plaintiff's claim as stated in the execution, and a description of the property levied upon, which notice must be recorded and indexed by the register of deeds in like manner and in the same book as a notice of the pendency of an action. **15-18-22**

- ***Certificate of sale issued to purchaser of real property--Contents--Execution and recording--Prima facie evidence.*** Upon the execution sale of real property the officer making the sale must give to the purchaser a certificate of sale containing:

- (1) A particular description of the real property sold;
- (2) The price bid for each distinct lot or parcel;
- (3) The whole price paid;
- (4) A statement of the time within which redemption may be made if property be sold subject to redemption, which time shall begin to run only from date of sale;
- (5) The name and address of the purchaser.

Such certificate must be executed by the officer and acknowledged and must be recorded in the office of the register of deeds of the county wherein the real property is situated. Such certificate of sale or the record thereof in the office of the register of deeds shall be prima facie evidence of the facts therein recited. **15-19-19**

- ***Limitation of action to challenge validity on nonjudicial foreclosure of real property mortgage.*** An action to challenge the validity of proceedings for the nonjudicial foreclosure of a mortgage on real property, or an action to challenge the validity of a title derived from such proceedings, may be commenced only within one year from the date the sheriff's certificate of sale was recorded in the office of the register of deeds of the county or counties where the affected real property is situated. **15-2-5.1**

- ***Notice of action affecting real property filed with register of deeds--Contents of notice--Foreclosure actions governed by specific statutes.*** In an action affecting the title to real property, the plaintiff, at the time of filing the complaint or at any time afterwards, or the defendant, when he sets up an affirmative cause of action in his answer and demands substantive relief, at the time of filing his answer or at any time afterwards, if the same be intended to affect real property, may file for record with the register of deeds of each county in which the real property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action, and the description of the real property in that county affected thereby; but if the action be for the foreclosure of a mortgage, or the enforcement of a mechanic's or miner's lien, no such notice need be filed, except as may be specifically provided by the statutes relating thereto. **15-10-1**

- ***Recording by register of deeds of order appointing receiver--Destruction of records.*** A certified copy of the order appointing the receiver must be filed and recorded in the office of the register of deeds of the county in which the judgment debtor resides and also in any county wherein personal property to be affected by the order is situated before the receiver may take possession and control of any such personal property. However, the register of deeds may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value. **15-20-16**

- ***Determination of liens--Procurement of assessment blank.*** Before seizing any property, the sheriff shall ascertain from the records of the Office of the Register of Deeds, the amount of any mortgages, conditional sales contracts, or other liens upon the property, and also the names and addresses of the lien holders. If the assessment blank is on file with the county auditor, the sheriff shall procure a copy from the county auditor of the assessment blank upon which the tax is based. **10-56-8**

- ***Sale of property which cannot be moved--Filing of notice of levy.*** If the property consists of property which cannot be practicably or conveniently moved, the sheriff may hold the

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property and conduct the sale at the place where the property is located. In that case, in addition to the service and notice specified in § 10-56-10, the sheriff shall file a copy of his notice of levy in the Office of the Register of Deeds of the county, along with the name of the person against whom the distress warrant was issued, the description of the property, the amount of the tax claim and a description of the real estate where the property is located. **10-56-11**

• ***Subdivisions outside municipal corporate limits not approved pursuant to § 11-3-6.*** The following provisions apply to all subdivisions of land that are not approved pursuant to § 11-3-6, and are located outside of municipal corporate limits:

(1) A municipality may elect to approve subdivision plats outside of but not exceeding three miles from its corporate limits, and not located in any other municipality;

(2) A municipality shall adopt a comprehensive plan and a major street plan that identifies the unincorporated area to be governed by municipal platting authority. A major street plan is defined as a document that consists of a map or written narrative, or both, of a municipality's future collector and arterial streets that are incorporated as a part of a municipality's comprehensive plan or as a stand-alone document that has been approved in accordance with the provisions of §§ 11-6-17 to 11-6-18.2, inclusive;

(3) A copy of the adopted comprehensive plan and major street plan shall be forwarded to the county commissioners through the office of the county auditor or clerk in which the municipality is located;

(4) After the comprehensive plan and major street plan is adopted and before approving plats outside municipal limits, the municipality shall adopt a subdivision ordinance that will govern the area outside municipal limits. The ordinance shall be adopted according to the provisions of § 11-6-27 and shall incorporate a platting jurisdiction boundary map or text description of the area to be governed;

(5) Subdivision plats may not be filed or recorded unless the plat has the recommendation of the city planning and zoning commission within sixty days of submission, and the approval of the city council;

(6) For lands located outside of and within three miles of more than one municipality, the jurisdiction of each municipality terminates at a boundary line equidistant from the corporate limits of the municipalities unless otherwise agreed to by a majority vote of the governing body of each such municipality. **11-6-26**

• ***(Condemnation Under Eminent Domain) - Notice of pendency of action filed with register of deeds--Effect of recording.*** At any time after the filing of the petition the plaintiff may file for record in the office of the register of deeds of the county in which the petition is filed a notice of the pendency of the proceeding, containing the names of the parties plaintiff and defendant, a statement of the purpose of the proceeding, and a description of the property through or over which the proposed improvement is to be constructed, which notice shall be recorded and indexed in the same manner as provided by law for the recording and indexing of notices of the pendency of actions in the circuit court, and from the date of the filing thereof shall be notice to all subsequent purchasers or encumbrancers of the property therein described. **21-35-8**

• ***(Counsel For Indigent Defender) - Statement of claim filed--Enforceability of lien.*** Immediately upon payment by the chargeable county or municipality, or upon the setting of the public defender's lien by a circuit court judge or magistrate judge, a statement of claim showing the name and residence of the recipient shall be filed by the county auditor or municipal, finance

officer in the office of the register of deeds in the county where the recipient resides. A certified copy of the lien may be filed in any other county in which the recipient may have or may acquire an interest in real or personal property. The lien is enforceable, until satisfied or compromised.

23A-40-13

- ***Contract reserving title to landlord to be filed with register of deeds.*** Every contract whereby the ownership or title to crops growing or to be grown upon any lands in this state is reserved in the landlord until division thereof between such landlord and the cropper or tenant, shall be filed in the office of the register of deeds of the county wherein such lands are located.

38-17-1

- ***Recording of proceedings authorizing sale or mortgage of real estate by unincorporated association.*** A certified copy of the adopted resolution authorizing the sale or mortgage of any real estate, and the affidavit of the publication of notice of sale, all as provided for in § 43-25-22, must be recorded at length by the register of deeds of the county in which the real property is situated and such records or certified copies of such records shall be prima facie evidence of the facts therein contained. Any proceedings taken and recorded before July 1, 1970, in the office of the register of deeds of the county in which the lands are situated which would have been a compliance with §§ 43-25-22 and 43-25-23 had the same been in effect as of the date of said recording are hereby declared to be valid. **43-25-23**

- ***Conveyances by unincorporated association prior to 1979 validated--Presumption as to legal capacity--Vested rights protected.*** All conveyances of real property, dated, and recorded in the county where the property is situated, by any unincorporated religious, benevolent, fraternal, charitable, or educational association, prior to January 1, 1992, are, notwithstanding the omission of a resolution directing such conveyance, or the giving of notice of the proposed action thereon, by the said association, its trustees, officers, or members, as provided in § 43-25-22, validated, legalized, and cured to the extent that such conveyances shall operate to convey to the persons named as grantees therein, all the right, title, and interest of any of said associations, whether such conveyances purport to have been executed by the members, officers, trustees, agents, or directors thereof; provided, however, that nothing appears of record subsequent to any such conveyances purporting to divest such persons, or their immediate or remote grantees, of such purported interest. In order to effectuate the purposes of the foregoing provisions, it shall be conclusively presumed that all such associations had legal capacity to own such real estate and had the legal right to convey the same. If any person had any vested right in any real property so conveyed, and no action or proceeding to enforce such right was begun prior to July 1, 1993, such right shall be forever barred; and no action or proceeding so brought shall be of any force or effect or maintainable in any court of this state unless, prior to July 1, 1993, there was recorded in the office of the register of deeds of the county in which the real property affected is situated, a notice of the pendency of such action, in accordance with the provisions of chapter 15-10.

43-25-24

- ***(Delinquent Property Taxes) - Seizure without moving property--Notice filed with register of deeds.*** If the property consists of bulky materials or property which cannot be practicably or conveniently moved, the sheriff may hold the same and the sale thereof at the place where it is located, and in such cases in addition to the service and notice specified in § 10-22-16, he shall file a copy of his notice of levy in the office of the register of deeds of the county, stating among other things the name of the person against whom the distress warrant was issued, the description of the property, the amount of the tax claim, and a description of the real estate

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where the property is located. **10-22-17**

- ***(Discharge Of Liens and Contracts) - Recording of judgment--Effect as discharge.*** A certified copy of the judgment may be filed in the office of any register of deeds or other public official of the state and shall have the effect of canceling or discharging said record according to the terms of said judgment and shall be of the same effect as a discharge or release of such instrument duly executed and acknowledged by the lawful holder thereof. **21-51-10**

- ***Validation of prior conveyances of school district real property--Assertion of vested rights.*** All instruments of conveyance of real property made by any school district prior to January 1, 1992, are, notwithstanding any omission, irregularities, or defects in the proceedings and resolutions had and taken by the school district to sell and convey real property, hereby validated, legalized, and cured to the extent that the conveyance operates to convey to the person named as grantee in the instruments of conveyance, all of the right, title, and interest of the school district in the real property. If any person had any vested right in any real property so conveyed and no action or proceeding to enforce the right was begun before July 1, 1993, the right is forever barred and no action or proceeding so brought is of any force or effect, or maintainable in any court of this state, unless, before July 1, 1993, there is recorded in the office of the register of deeds of the county in which the real property affected is situated, a notice of the pendency of the action, in accordance with the provisions of chapter 15-10. **13-21-8**

- ***Electronic preservation of documents.*** Any permanent document filed or recorded in the office of the register of deeds may be electronically preserved provided the original record is retained in hard copy or on microfilm. **7-9-24.**

- ***(Energy Mineral Severance Tax) - Lien of tax--Filing and Recording--Indexing.*** A tax due and unpaid under this chapter is a lien upon all the property of the taxpayer against whom the taxes are assessed. A lien is perfected by the filing and recording of a notice of lien with the register of deeds of the county where the taxpayer resides or has property and constitutes constructive notice to purchasers of the existence and superiority of the lien. A notice of lien shall contain the name of the tax debtor, the amount of taxes claimed to be due, and a description of the property against which the lien is claimed. The register of deeds of the county in which such a lien is filed shall index the lien in the same form and manner and in the same book as provided for the indexing of income tax liens in chapter 10-43, except that the entry in the index shall show that the lien is a severance tax lien. Upon payment of the tax, the secretary shall release the lien. **10-39A-17**

- ***(Federal Tax Liens Registration) - Duty of secretary of state or register of deeds on presentation of notice of federal lien, refiling of notice, or notice of revocation of certificate.***

If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in § 44-7-5.1 is presented for filing:

- (1) To the secretary of state, the secretary of state shall cause the notice to be marked, held, and indexed in accordance with the provisions of chapter 57A-9, as if the notice were a financing statement within the meaning of the Uniform Commercial Code; or

- (2) To any register of deeds, the register of deeds shall receive, record, and index the notice in the same manner as similar instruments are recorded and indexed. **44-7-4.1**

- ***Schedule of fees for filing lien or certificate or notice affecting lien--Deposit of fee.*** For filing a lien or certificate or notice affecting any lien filed under this chapter, the fee is as follows:

- (1) Twenty dollars if the record is communicated in writing; and

- (2) Fifteen dollars if the record is communicated by another method or medium

authorized by filing office rule.

If the filing is with the secretary of state, one dollar of the fee shall be deposited into the financing statement filing fee fund. **44-7-8.1**

- **(Foreclosure Of Real Property Mortgage by Advertisement) - Certificate of sale given to purchaser--Contents--Execution and recording.** The officer making such real estate mortgage foreclosure sale shall give to the purchaser a certificate of sale, containing:

- (1) A recital of the fact of the sale, stating the time and place, and the name of the purchaser;

- (2) A particular description of the real property sold;

- (3) The price bid for each distinct lot or parcel;

- (4) The whole price paid; which certificate must be executed and acknowledged and shall be recorded in the office of the register of deeds where the mortgage is recorded within ten days from the date of sale, and shall have the same validity and effect as a certificate of sale of real property under execution. **21-48-19**

- **(Foreclosure Of Personal Property Liens And Pledges By Advertisement) - Affidavit of lien recorded if lien not previously recorded.** If any lien or pledge sought to be foreclosed under this chapter is not duly on file or of record in the office of the register of deeds of the county in which the foreclosure is to be conducted, the person desiring to foreclose such lien must first file in the office of such register of deeds a sworn statement of the lien as required in Title 44 for giving notice of lien claims. **21-54-4**

- **Affidavit required to levy on homestead in excess of exemption--Contents--Filing and service of notice of levy and affidavit.** No levy shall be made on any homestead to reach the valuation thereof in excess of the homestead exemption set by subdivision 43-45-3(2), whether on attachment, execution, or other process, except as provided in this section. In the event the creditor claims such valuation exceeds such exemption he shall deliver to the officer holding the process, an affidavit, by himself or his attorney, setting forth the legal description of such homestead if real property, or the descriptive data contained on the certificate of title if a mobile home, the claim as to valuation thereof, and all encumbrances according to the affiant's best knowledge, information, and belief. If it appears from such affidavit that the value of debtor's equity exceeds such homestead exemption, the officer must file in the office of the register of deeds of the county where the homestead is situated, a notice of levy on such homestead with the said affidavit attached thereto, which notice and affidavit shall be duly recorded and shall be forthwith served upon the debtor in the same manner as provided by this code as to other notices. From the time of such filing and such service, such notice shall be effective as a levy only on the excess over and above the homestead exemption. **21-19-2**

- **(Irrigation Districts) - Filing and recording of order changing boundaries--Effect of change.** If the boundaries of a district are changed, a copy of the order of the board of directors ordering the change, certified by the president and secretary of the board, shall be filed for record in the office of the Board of Water and Natural Resources and also the register of deeds office of each county within which are situated any of the lands of the district. The district shall remain an irrigation district as fully, to every intent and purpose, as if the lands which are included in the district by the boundary change had been included in the district at the original organization of the district. **46A-4-62**

- **Time for selection of jury panels.** Within fifteen days from the receipt of the order provided in § 16-13-22, but no later than the first day of November, the clerk of courts shall

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select the jury panels. Any such officer who is not disqualified may act by deputy. **16-13-23**

- **(Livestock Liens) - Veterinarian's statement filed with register of deeds--Contents--Filing and indexing.** Any veterinarian entitled to a lien under § 40-27-12 shall make an account in writing, stating the kind and number of livestock vaccinated, the price agreed upon for such vaccination, which shall not be in excess of the price usually charged for such services, the name of the person for whom said vaccinating was done, and description of the livestock vaccinated, and if branded shall describe the brand thereon, and after making oath to the correctness of the account shall file the same in the office of the register of deeds of the county in which the person owning such livestock resides. The register of deeds shall number, file, and index the said lien in the personal property index. **40-27-13**

- **(Mechanics And Materialmens Liens) - Attachment of lien--Protection of bona fide purchaser, mortgagee, or encumbrancer--Notice of lien for improvements thereafter made.** As against a bona fide purchaser, mortgagee, or encumbrancer without notice, however, no lien shall attach prior to the actual and visible beginning of the improvement on the ground, but a person having a contract for the furnishing of labor, skill, material, or machinery for such improvement, may file with the register of deeds of the county within which the premises are situated or of the county to which such county is attached for judicial purposes, or if claimed under subdivision 44-9-1(2), with the secretary of state, a brief statement of the nature of such contract, which statement shall be notice of his lien for the contract price or value of all contributions to such improvement thereafter made by him or at his instance. **44-9-8**

- **Fees for the filing, indexing or assignment of liens.** The register of deeds shall charge a fee in accordance with subdivision 7-9-15(3) for the filing and indexing of any lien or assignment of the lien under the provisions of this chapter. However, no fee may be charged for the satisfaction of the lien. **44-9-19**

- **(Mineral, Oil and Gas Liens) - Discharge and cancellation of record of lease--Marginal entry on record.** Any oil and gas or mining lease that has been or may hereafter be recorded in the office of the register of deeds of any county may be discharged and canceled of record by an entry on the margin of the record thereof signed by the lease owner of record, or his duly authorized attorney in fact or personal representative, or if a corporation, by its duly authorized officers, surrendering all of his right, title, and interest in and to said lease, in the presence of the register of deeds or his deputy who shall subscribe the same as witness. **45-7-1**

- **(Minerals On School and Public Lands) - Limitation of actions to contest validity of oil and gas leases.** If any person has a vested right in any real property leased and desires to contest the validity of an oil and gas lease and no action to enforce such right is begun before July 1, 1983, such right shall be forever barred. No action so brought shall be of any force or effect, or maintained in any court in this state, unless before July 1, 1983, there is recorded in the office of the register of deeds of the county in which the real estate is situated, a notice of pendency of such action, in accordance with the provisions of chapter 15-10. **5-7-40**

- **(Mineral Severance Tax) - Lien of tax--Recording--Release.** A tax due and unpaid under this chapter is a lien on all of the property of the taxpayer. The lien shall be perfected by the filing and recording of a notice of lien with the register of deeds in the county where the taxpayer resides or has property and shall thereafter constitute constructive notice to purchasers of the existence and superiority of the lien. The notice of lien shall contain the name of the tax debtor, the amount of taxes claimed to be due, and a description of the property against which the lien is claimed. The register of deeds of any county in which the lien is filed shall index the lien

in the same form and manner and in the same book as provided for the indexing of income tax liens in chapter 10-43, except that the entry in the index shall show that the lien is a severance tax lien. On payment of the tax, the secretary of revenue shall release the lien. **10-39-47**

- **(Modernization and Preservation Fund) - County register of deeds modernization and preservation relief fund.** There is hereby established a county register of deeds modernization and preservation relief fund to be administered by the county register of deeds. The fund shall be used for modernization of information systems and preservation of property and records. The register of deeds may purchase or enter into agreements for software, training, equipment, maintenance, supplies, and contract services. The fund may not be used for salaries. Any money deposited in the county register of deeds modernization and preservation relief fund may not be reverted or transferred to the county general fund or any other county fund. **7-9-25**

Fees deposited into fund--Distribution. Five dollars of each recording or filing fee collected by the register of deeds, pursuant to subdivisions 7-9-15(1), (3), (4), and (5) and §§ 11-3-11, 43-15A-9, and 43-20-10, shall be deposited into the county register of deeds modernization and preservation relief fund. Sixty percent of the money deposited in the fund pursuant to this section shall remain in the fund for use by the register of deeds pursuant to § 7-9-25. Forty percent of the money deposited in the fund pursuant to this section shall be remitted before the last working day of each month for the previous month's collections to the South Dakota association of county officials register of deeds modernization and preservation relief fund created pursuant to § 7-9-28. **7-9-26**

- **Duty of the county governing body to fund register of deeds--Gifts, grants, contributions, and funds from other sources.** The county register of deeds modernization and preservation relief fund may not be construed to diminish the duty of the county governing body to provide for funding for salaries, personnel, supplies, equipment and other expenses for the register of deeds, even if the funding is relative to technology and preservation in the performance of the duties of the register of deeds and any other laws relating thereto. The register of deeds may accept and fully retain any gifts, grants, contributions, or funds obtained from any other source for the purpose of carrying out the provisions of §§ 7-9-25 and 7-9-26. The gifts, grants, contributions, or funds shall remain entirely with the respective county register of deeds modernization and preservation relief fund. **7-9-27**

- **South Dakota association of county officials register of deeds modernization and preservation relief fund.** There is hereby established a South Dakota association of county officials register of deeds modernization and preservation relief fund to be administered by the South Dakota Association of County Officials. Distributions, including the cost to administer the fund, shall be approved by the executive board of the association of county officials. **7-9-28**

- **Fiscal year of fund--Computation of each county's share of deposits--Division of money in fund--Administrative fee.** The fiscal year for the South Dakota association of county officials register of deeds modernization and preservation relief fund begins on July first and ends on June thirtieth. Before July thirty-first of each year, the association of county officials shall compute each county's share of the deposits from the previous fiscal year. The association shall certify each county's share of the total fund and remit the share to the county auditor on or before August thirty-first of each year. The money in the fund shall be divided equally among each of the sixty-six counties, less the administrative fee to be determined by the board of directors for the South Dakota Association of County Officials and the expenses and costs related to § 7-9A-5. The administrative fee may not exceed one percent of the total annual remittance to the fund. The

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county auditor shall deposit the money received pursuant to this section in the county register of deeds modernization and preservation relief fund. **7-9-29**

• ***(MUNICIPALITIES) Definition of terms.*** Terms used in this title, unless the context otherwise plainly requires, shall mean:

(1) "County," the county or counties wherein the municipality concerned or affected is located;

(2) "Elector(s)" or "qualified elector(s)," voter(s);

(3) General terms descriptive of an officer, act, proceeding, or thing shall have reference to a municipality concerned or affected;

(4) "Governing body," the board of trustees, the board of commissioners, or the common council, as the case may be, of a municipality concerned or affected;

(5) "Lot" includes parcel or tract of land;

(6) "Municipal corporation" or "municipality," all cities and towns organized under the laws of this state but shall not include any other political subdivisions;

(7) "Owner," as used in the chapters relating to local improvements, the grantee in the last deed of conveyance of any lot or parcel of land recorded in the office of the register of deeds of the county or counties in which the municipality is located, or his heirs or successors;

(8) Except as provided by § 9-13-13, any requirement for publication shall mean publication in the official newspaper of the municipality concerned or affected, if any; but if none, then, in a legal newspaper published in such municipality, if any; but if none, then, in any legal newspaper which serves such municipality;

(9) "Street" includes "avenue".

Personal service either within or without the state upon the person affected thereby by delivery of a copy of a notice required to be published shall be equivalent to the required publication. **9-1-1**

• ***Resolution declaring approval by voters of annexing municipality--Filing and recording of proceedings.*** If a majority of the votes cast in the municipality to which annexation is to be made be in favor of annexation, the governing body of such municipality shall so declare by resolution. A certified copy of the whole proceedings of the annexation shall be filed with the auditor of such municipality and he shall file a certified copy of such proceedings and a certified copy of the proceedings of the municipality to be annexed with the secretary of state, and in the office of the register of deeds of the county, who shall record the same. **9-5-8**

• ***Judgment changing classification of municipality--Filing of judgment.*** Upon such hearing, if the facts warrant the granting of the application, the court shall make and enter its judgment changing the status of the municipality to that of a municipality of the appropriate class, pursuant to § 9-2-1. The court shall establish the time when the change shall be effective and determine the manner in which the change shall be made. A certified copy of the judgment shall be filed in the office of the register of deeds of the county wherein such municipality is situated, and also in the Office of the Secretary of State. **9-11-4**

• ***Recording of resolution or decree changing municipal boundaries--Effective date.*** Whenever the limits of any municipality are changed by a resolution of the governing body or by a decree of court it shall be the duty of the mayor or the president of the Board of Trustees to cause an accurate map of such territory, together with a copy of the resolution or decree duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated, and thereupon such territory shall become and be a part of such

municipality or be excluded therefrom as the case may be. **9-4-11**

- ***Filing and recording of decree of dissolution--Cessation of municipal existence.*** A copy of the judgment of dissolution, certified by the clerk of courts, shall be filed in the office of the register of deeds in the county or counties in which such municipality is situated and in the Office of the Secretary of State, and upon the filing of such copies such municipality shall be deemed to be dissolved, and it shall cease to be a municipality excepting as set forth in § 9-6-9.

9-6-8

- ***Recording and filing of canvass of votes on incorporation--Registry maintained by secretary of state.*** The officers of any municipality organized under this title shall cause to be filed within thirty days thereafter in the office of the register of deeds of the county a certified copy of the canvass of the votes showing the result of the election held to determine the question of such organization, which the register of deeds shall record, and shall also cause a like certificate to be filed in the Office of the Secretary of State, who shall file the same and keep a registry of the municipalities so organized. **9-3-14**

- ***Survey and plat filed on laying out or boundary change in street, alley, or public ground.*** When any street, alley, or public ground in a municipality is laid out or its boundaries changed, the governing body shall cause an accurate survey and plat thereof to be made and filed in the office of the finance officer and in the office of the register of deeds of the county. Any municipality may widen an existing street within the platted right-of-way without filing new plats. **9-45-6**

- ***(Notice Of Posting) - Time allowed for assertion of right arising from irregular posting--Lis pendens.*** If a person has a vested right in any property by reason of an omission referred to in § 17-3-6, such right shall be forever barred, if no action or proceeding to enforce such right was commenced prior to July 1, 1979. No such action or proceeding may be maintained by a court of this state, unless prior to July 1, 1979, a notice of the pendency of such action was recorded in the office of the register of deeds of the county in which the real property affected is situated, in accordance with chapter 15-10. **17-3-7**

- ***(Partition and Sale of Real Estate) - Lis pendens notice required--Constructive notice.*** Immediately after filing the complaint in the circuit court, the plaintiff must record in the office of the register of deeds of the county or of the several counties in which the property is situated, a notice of the pendency of the action, containing the names of the parties, so far as known, the object of the action, and a description of the property to be affected thereby. From the time of filing such notice for record all persons shall be deemed to have notice of the pendency of the action. **21-45-7**

- ***Sale valid from time of confirmation--Recording of certified copy of order.*** The sale is confirmed and valid from the time of the order confirming it, and a certified copy of the order shall be recorded in the office of the register of deeds of the county wherein the property or some part thereof is situated. **21-45-46**

- ***(Publication Of Notices) - Notices validated despite hearing or action in same week as final publication--Rights barred by no action.*** All publications of notices which were made in the form, for the number of publications and length of time required by the law then applicable thereto, with the final publication on a day prior to hearing or other action pursuant to such notice and all orders and decrees entered, or other action taken, or permitted to be taken, based upon any such notice, prior to January 1, 1992, are hereby legalized and validated notwithstanding the fact that hearing was held, or other action had, or permitted to be had, in the same calendar

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week as the final publication of such notice. If any person has any vested right in any real or personal property by reason of any omission referred to in this section, and if no action or proceeding to enforce such right was commenced prior to July 1, 1993, such right shall be forever barred. No action or proceeding brought involving real property shall be of any force or effect, or maintainable in any court of this state, unless prior to July 1, 1993, there was recorded in the office of the register of deeds of the county in which the real property affected is situated, a notice of the pendency of such action, in accordance with chapter 15-10. **17-2-22**

- ***(Railroad Operating Property) - Notice to county auditor of deeds to railroads--Entry on railroad map.*** It shall be the duty of the register of deeds of the county to notify the county auditor of any deed to any railroad company for the right-of-way, depot grounds, yard room, gravel or sand beds, or lands for snow protection, that may be filed in his office for record so that the same may be entered by such county auditor on such map for the purposes mentioned in § 10-28-19. **10-28-20**

- ***(Real Estate Liens) - Validation of recorded real estate mortgages containing prohibited provisions--Notice to subsequent purchasers, encumbrancers or creditors--Rights of good faith purchasers or encumbrancers prior to July 1, 1949--Rights barred by no action.*** The recording of any mortgage or trust deed affecting real property which was otherwise entitled to be recorded and which prior to January 1, 1992, was copied into the proper book of records kept in the office of any register of deeds and which has been properly indexed in that office, against the real property affected by such instrument shall be deemed to impart sufficient notice of such instrument and its contents to subsequent purchasers, encumbrancers, or creditors, notwithstanding that such mortgage contains one or more provisions which are prohibited by § 44-8-7, and the act of any register of deeds in copying any such mortgage or trust deed into a proper book of records kept in his office and in properly indexing the same in his office against the real property affected by such instrument, is hereby legalized, cured, and declared valid; but nothing herein contained shall affect the rights of purchasers, encumbrancers, or holders of a valid lien by court proceedings who became such in good faith prior to January 1, 1992, provided further that this section shall not legalize any of the prohibited provisions contained in any such mortgage. If any person has any vested right in any real property by reason of any omission referred to in this section, and if no action or proceeding to enforce such right was commenced prior to July 1, 1993, such right shall be forever barred. No action or proceeding brought involving real property shall be of any force or effect, or maintainable in any court of this state, unless prior to July 1, 1993, there was recorded in the office of the register of deeds of the county in which the real property affected is situated, a notice of the pendency of such action, in accordance with chapter 15-10. **44-8-8**

- ***Recording of instruments affecting real estate with register of deeds.*** Any instrument affecting the title to or possession of real property may be recorded as by law provided. Instruments entitled to be recorded must be recorded by the register of deeds of the county in which the real property affected thereby is situated. **43-28-1**

- ***(Recording, Notice and Priority Of Liens) - Lien statement covering personal property--Condition precedent to filing--Mailing of copy to owner of property.*** Before filing such lien statement, the person claiming the lien shall mail to the property owner at his last known post office address, by registered or certified mail, a copy of such lien statement and the post office receipt for such mailing shall be attached to the lien statement and filed in the office of the register of deeds. **44-2-4**

- ***(Reimbursement Of County Poor Relief) - Recording of poor relief payments by county auditor--Contents of record--Place of filing.*** It shall be the duty of the county auditor, immediately after issuing of county warrants or payment of cash, as the case may be, for the benefit of any poor person, to record the name of such poor person for whose benefit such warrants or cash were issued, the amount thereof, the purpose for which such warrants or cash were issued, together with the name of the fund from which such warrants or cash were drawn, all properly indexed, and to subsequently record in a like manner each additional payment made by the county for such poor person. Such record shall be filed in the office of the register of deeds of the county in which such poor person resides, and in the county of his legal residence or last residence, if he is an inmate of any state institution or deceased. **28-14-7**
- ***Court records and register of deeds records subject to restoration procedure.*** Whenever the loss or destruction of any record or any part thereof, of any circuit or magistrate court, or of any record in the office of the register of deeds of an instrument affecting the title to real property in this state shall have happened, or shall hereafter happen, and the original instrument from which said record was made, or a duly certified copy thereof cannot be produced, the record of such instrument may be established and restored as provided in this chapter. **21-38-1**
- ***(Restrictive Contracts and Declarations) - Execution, filing and recording of declaration or contract of landowners--Homestead.*** Any property owner desiring to exercise the powers conferred by § 11-5-1 shall enter into a declaration or contract in writing specifying the regulations and restrictions which the property owner may desire to impose upon the property owned by him. The declaration or contract shall be signed by the property owner executing the same and acknowledged by the property owner who shall, within thirty days after the execution and acknowledgment of the declaration or contract, record the same in the office of the register of deeds of the county in which the land affected is situated. If required by the municipal governing body, within thirty days after the recording, a copy, certified by the register of deeds, shall be filed with the auditor of the first or second class municipality in which the land is situated. Any declaration or contract covering a homestead shall be executed and acknowledged by both the owner and the spouse of the owner. **11-5-2**
- ***(Sale Of School and Public Land) - Recording of notice of default--Prima facie evidence.*** A copy of the notice with proof of service thereof and the affidavit of the commissioner of school and public lands showing that the purchaser has not complied with the terms of the notice, may be recorded with the register of deeds and shall be prima facie evidence of the facts therein stated. **5-9-25**
- ***Issuance to bankrupt of patent to land set aside as homestead.*** When, in the adjudication of an estate in bankruptcy proceedings, a portion of a legal subdivision has been decreed and set apart to the bankrupt as exempt under the homestead laws of the state, and a plat showing the exact boundaries of the tract so set apart has been filed in the office of the register of deeds of the county in which the lands are situated and a copy thereof has also been filed in the Office of the Commissioner of School and Public Lands, a patent may be issued for such tract to the bankrupt to whom such tract has been set apart. **5-9-33**
- ***Scavenger Tax Law - Tax Deed Form:*** The treasurer shall execute a tax deed to the county of any piece or parcel or lot of land and shall include in the deed any number of descriptions. **(For full form refer to SDCL 10-26-7)**
- ***(Short Term Redemption Mortgages) - Certificate of sale to purchaser--Contents--Recording--Commencement of redemption period.*** The person making such sale shall give to

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the purchaser a certificate of sale, containing:

- (1) A recital of the fact of the sale, stating the time, and place, and the name of the purchaser;
- (2) The legal description of the property sold;
- (3) The price bid for each distinct parcel; and
- (4) The whole price paid.

The certificate shall be executed and acknowledged and shall be recorded in the office of the register of deeds where the property is located within twenty days from the date of sale. The period of redemption as provided in this chapter shall commence on the date that the certificate is recorded. **21-49-30**

• ***(State-Owned Lands in General) - Application for conveyance or easement on state-owned lands--Approval by Governor--Recording--Disposition of payments.*** Upon application for conveyance of the title, or the granting of an easement of any kind over or across lands in which the title is in the State of South Dakota, the board, commission, or other agency of the State of South Dakota having the control of and administration of such lands shall forward to the commissioner of school and public lands a certified copy of a resolution of the agency requesting the conveyance, stating the consideration and citing the specific authority, if any, authorizing the conveyance. Whereupon, the commissioner shall draw easements or conveyances of the title and submit the same to the Governor for approval; and, if approved by him, such instruments shall be signed by the Governor and attested by the commissioner of school and public lands, who shall cause such conveyance to be recorded in the office of the register of deeds of the county in which said real estate is located. All payments for such land, or easements over or across such lands, shall be paid to the state treasurer, who shall credit such payments to the general fund of the State of South Dakota, unless such funds are otherwise specifically dedicated by law. **5-2-11**

• ***Abandoned railroads on state property--Documentation by affidavit of commissioner.*** In all cases in which an order, decree, or similar document entered by an authorized office or agency, providing for abandonment of any railroad, or portion thereof, has been recorded in the office of the register of deeds of any county through which such abandoned railroad, or portion thereof, extends, the commissioner of school and public lands shall prepare and execute an affidavit, or document certified as the official act of his office, as to each county through which such abandoned railroad, or portion thereof extends, in which the Department of School and Public Lands presently has, or previously had, since the establishment of such railroad, any right, title, or interest. The affidavit or other document shall describe each legal subdivision through which such railroad extends and the portion acquired for establishing the railroad. **5-2-11.1**

• ***Recording of affidavit.*** The commissioner of school and public lands shall present the affidavit or other document pertaining to lands in the particular county to the register of deeds who shall record and index the same. **5-2-11.2**

• ***Plats of federal, state, county, and municipality property--Recording--Exemption from law pertaining to filing of private plats for record--Use for descriptive purposes.*** Each plat of real property acquired by the forest service of the United States Department of Agriculture, the State Department of Transportation, the South Dakota Building Authority, and the several counties and municipalities of the State of South Dakota and, which plat is subscribed to by the forest engineer of the forest service of the United States Department of Agriculture, an authorized agent of the State Department of Transportation, or any registered land surveyor in the employ of the forest service of the United States Department of Agriculture, the State

Department of Transportation, the South Dakota Building Authority, or the several counties or municipalities of the State of South Dakota, shall be entitled to record in the office of the register of deeds, in which such lands or any portion thereof are situated without compliance with the provisions of chapter 11-3 or this chapter, pertaining to the filing of plats for record. Any amendments or vacations of plats filed by the forest service of the United States Department of Agriculture, the State Department of Transportation, the South Dakota Building Authority, or several counties or municipalities of the State of South Dakota may be entitled to record in like manner. All plats filed by the counties subsequent to January 1, 1968 shall be valid and covered by the provisions of this section. No plats filed for record under this section may operate of themselves to transfer title to the property described but such plats are for descriptive purposes only. **43-21-5**

- ***Persons entitled to notice of intention to take tax deed.*** The notice of intention to take a tax deed shall be served upon the owner of record of the real property so sold, upon the person in possession thereof, upon the person in whose name the property is taxed, upon the mortgagee named in any unsatisfied mortgage in force upon the real property of record in the office of the register of deeds of the county in which the property is located, and if the mortgage has been assigned and the assignment thereof placed upon record in the office of the register of deeds, then upon the assignee in lieu of the mortgagee named in the mortgage. The notice of intention to take a tax deed shall also be served upon any lienholder, any creditor of record and other interested person as may appear from the records in the office of the register of deeds, the county treasurer or the clerk of courts. The county treasurer may obtain any title information necessary to identify persons who appear from the records to be interested in such real property as owners, mortgagees, lienholders or otherwise. **10-25-3**

- ***Limitation of proceedings to contest tax deed--Defenses in action by tax-deed grantee.*** No action may be commenced by the former owner or by any person claiming under him, to recover possession of any real property which has been sold and conveyed by deed for nonpayment of taxes or to avoid such deed, unless such action is commenced within one hundred eighty days after the recording of such deed. No defense may be interposed or maintained by the former owner, or by any person claiming under him, in any action brought to quiet the title in the grantee in any tax deed, or by any person claiming under such grantee, in any tax deed issued and delivered by any county treasurer of any county in this state, unless such defense is interposed within one hundred eighty days after the recording of such tax deed in the Office of the Register of Deeds of the county in which the real estate described in such tax deed is located. **10-25-44**

- ***(Termination Of Life Estates) - Recording death certificate--Prima facie evidence--Affidavit identifying property.*** In all cases of joint tenancy in lands or personal property, and in all cases where any estate, title or interest in, or lien upon, lands or personal property has been or may be created, which estate, title, interest, or lien was or is to continue only during the life of any person named or described in the instrument by which such estate, title, interest or lien was created, a copy of the record of the death of any such joint tenant or of the person upon whose life such estate, title, interest, or lien was or is limited, duly certified by any officer who is required by the laws of the state or county in which such record is made, to keep a record of the death of persons occurring within the jurisdiction of such officer, may be recorded in the office of the register of deeds of the county in which such lands are situated or in the proper office for filing as to such personal property. The record of such certified copy is prima facie evidence

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of the death of such person and the termination of such joint tenancy and of all such estate, title, interest, and lien as was or is limited upon the life of such person. In order to identify the property affected by the death of such person, the person causing the certificate to be recorded shall attach thereon an affidavit setting out the legal descriptions of the property involved.

This section shall not be treated or construed as exclusive of any other remedy authorized by law or rule of court but as cumulative to such other remedy. **21-44-2**

- ***(Uniform Acknowledgments Law) - Officers permitted to take acknowledgment within state.*** The acknowledgment of any instrument may be made in this state before:

- (1) A judge of the circuit court;
- (2) A clerk or deputy clerk of the circuit court;
- (3) A register of deeds;
- (4) A notary public; or
- (5) A magistrate. **18-5-2**

- ***(Vital Records and Burial Permits) - Register of deeds or designee as local registrar--Fees--Deputy, appointment, and duty.*** The register of deeds shall be the local registrar of vital records for each registration district in this state. If there is no register of deeds, the department shall designate the local registrar who shall assume the responsibilities of local registrar of vital records. No fee shall be charged by a local registrar for filing an original or amended birth record or a death or burial record or for certified copies to persons entitled thereto under § 34-25-54. Each local registrar shall appoint a deputy whose duty it shall be to act in his stead in case of the absence or disability of such local registrar. **34-25-4.1**

RESOLUTIONS Ch 7-18A - See also, ORDINANCES

- ***Authority to enact, amend, and repeal ordinances and resolutions--Penalties for violation.*** Each county may enact, amend, and repeal such ordinances and resolutions as may be proper and necessary to carry into effect the powers granted to it by law and provide for the enforcement of each violation of any ordinance by means of any or all of the following:
 - (1) A fine not to exceed the fine established by subdivision 22-6-2(2) for each violation, or by imprisonment for a period not to exceed thirty days for each violation, or by both the fine and imprisonment; or
 - (2) An action for civil injunctive relief, pursuant to chapter 21-8. **7-18A-2**
- ***Passage of resolutions--Record of votes--Publication in minutes.*** A resolution may be passed after one reading. It shall be recorded at length in the minutes of the meeting at which it is passed, with a statement of the number of votes for and against the same. It shall be published in full as part of the minutes of the board. **7-18A-7**
- ***Establishment of office by commissioners' resolution.*** Each board of county commissioners may, by resolution, establish and maintain an office of public defender to fulfill the requirements of § 23A-40-7. **7-16A-1**

REWARDS FOR AID IN ARREST AND CONVICTION OF FELONS

- ***Rewards for aid in arrest and conviction of felons.*** The county commissioners of any county in this state may offer a standing reward of not more than five thousand dollars for evidence leading to the arrest and conviction of any person or persons guilty of any felony under the laws of this state. They may also in their discretion offer special rewards in reasonable amounts for the purpose of securing the arrest and conviction of any person or persons charged with a felony in any particular case. **7-8-20.1**
- ***Determination by commissioners of right to reward--Payment.*** Applications for a reward authorized by § 7-8-20.1 or any part thereof shall be filed with the county commissioners who shall determine the rights of the applicants thereto and cause warrants to be issued upon the general fund of the county for such portion of the reward as is found to be due thereon. **7-8-20.2**

RIGHT OF WAY

- ***Rights-of-way on highways granted by county commissioners.*** The board of county commissioners may grant the right of constructing, laying, maintaining, and operating on any highway under its jurisdiction, pipelines and gas mains for the transportation of natural or artificial gas. **7-8-23**

RURAL ELECTRIC COMPANIES Ch 10-36

- ***Annual report of electric energy subject to taxation apportioned to counties and school districts.*** On February fifteenth of each year, each retail company on behalf of itself and its wholesale power supplier shall file with the secretary of revenue on forms prescribed by the secretary a report of the number of kilowatt hours of retail and wholesale electric energy subject to taxation pursuant to this chapter apportioned to each county and school district in proportion to electric energy delivered at retail. The report shall be sworn to and verified by an officer of the retail company. **10-36-5**
- ***County commissioners' allocation of assessed valuation to taxing districts--Notice to company.*** It shall be the duty of the county auditor, after receiving said statement from the Department of Revenue setting forth the valuation as finally equalized of any pipeline company owning and operating a pipeline in his respective county, to turn such statement over to the board of county commissioners, who at its first meeting after receiving such statement, shall make and enter in the proper record an order stating and declaring the length of such pipeline or lines of each pipeline company running through or extending into each township or lesser taxing district of such county, together with the valuation as certified by the Department of Revenue, which shall constitute the assessed valuation of said property for taxing purposes; and the taxes on said property when collected by the county treasurer, shall be disposed of as other taxes. The county auditor of such county shall within three days after the making of such order transmit a copy of the same to the secretary or accounting officer of such company. **10-37-10**

SALARIES

- **(Auditors, Treasures, Register Of Deeds) Determination of population for county salary purposes.** The annual salaries of the county auditor, the county treasurer, and the register of deeds of the several counties of this state shall be regulated and fixed by the population of the several counties as shown by the last federal census. **7-7-8**

- **Salary for county treasurer, auditor and register of deeds--Salaries not to be decreased during terms of office.** The board of county commissioners shall establish, by resolution, the salary payable to the county treasurer, county auditor, and county register of deeds. The salary payable may not be less than the following schedule as based upon the most recent decennial federal census of population for counties:

County Population	Salary Schedule
Below 10,000	\$33,825
10,000-14,999	\$34,543
15,000-24,999	\$35,952
25,000-69,999	\$39,479
70,000 and over	\$42,561

The board of county commissioners may not decrease the salary of the county treasurer, county auditor, or county register of deeds during consecutive terms of office of the county treasurer, county auditor, or county register of deeds. **7-7-9.1**

- **Salaries as full compensation--Fees paid into treasury.** Except as provided in subdivision 7-8-20(11), the salaries provided in § 7-7-9.1 shall be full compensation for all services rendered by such county officials. All fees and per diem collected by any such county officials shall be paid to the county treasurer of their respective counties. **7-7-17**

- **(Commissioners) - Compensation of county commissioners.** The method of payment, whether per diem or salary, and the amount of per diem or salary shall be determined by the board of county commissioners in each county. If the per diem method is used, the county commissioners shall be allowed the per diem amount for each day they are actually and necessarily employed in the duties and business relating to county affairs and the duties of their office and in attending and returning from sessions of the board. The county commissioners shall be allowed mileage for the distance actually traveled in attending the meetings of the board, or when engaged in other official duties. The per diem shall be paid out of the general county fund. The per diem shall be set by the commission on the first regular meeting date in January of each year. **7-7-3**

- **Salary of county commissioners.** The board of county commissioners may determine the salary of the commissioners. Such salary may be set by the board of county commissioners at its first regular meeting of each year. If the board of county commissioners fails to determine a salary, then the salary of a county commissioner in any one year is:

- (1) Seven thousand two hundred thirty-three dollars as per diem or salary in counties of thirty thousand population or over;
- (2) Six thousand five hundred sixty-six dollars as per diem or salary in counties of fifteen thousand population and over and not more than thirty thousand population;
- (3) Five thousand three hundred ninety-seven dollars as per diem or salary in counties of eight thousand population and over and not more than fifteen thousand population;
- (4) Four thousand eight hundred ninety-six dollars as per diem or salary in counties of less than eight thousand population. **7-7-5**

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- **(Coroner) - Salary--Radio.** The coroner may receive a salary which shall be set by the board of county commissioners and the coroner may be furnished with a radio by the county capable of transmitting and receiving government bands. **7-14-8**
- **(Sheriff) - Sheriff's salary schedule.** The board of county commissioners shall establish, by resolution, the salary payable to the sheriff. The salary payable may not be less than the following schedule based upon the most recent decennial federal census of population of counties.

County Population	Salary Schedule
Below 10,000	\$41,256
10,000-14,999	\$44,723
15,000-24,999	\$46,110
25,000-69,999	\$51,657
70,000 and over	\$56,163

The board of county commissioners may not decrease the salary of the sheriff during consecutive terms of office of the sheriff. Any sheriff having responsibility for managing a full-time jail shall receive an additional ten percent added to the base salary listed in this section. **7-12-15**

- **(State's Attorney) - Salary for state's attorney--Contract for services--Prohibitions.** The board of county commissioners shall establish, by resolution, the salary payable to the state's attorney. The salary payable may not be less than the following schedule as based upon the most recent decennial federal census of population for counties:

County Population	Salary Schedule
Below 5,000	\$34,554
5,000 - 9,999	\$37,673
10,000 - 20,000	\$44,492
20,000 - 49,999	\$47,728

In counties of over fifty thousand population where a full-time state's attorney is required or in counties where the commissioners designate the position full-time the sum of seventy-one thousand five hundred thirty-four dollars per year. In counties of less than fifty thousand population the commissioners may designate the position full-time. The decision by the commissioners shall be adopted prior to the first day of January in the year of the election and may only be amended for that term of office with the consent of both the state's attorney and the commissioners. If no state's attorney is elected to the office at any general election, the board of county commissioners may contract for such legal services and negotiate the compensation therefor on terms and conditions determined by the board of county commissioners. The board of county commissioners may not decrease the salary of the state's attorney during consecutive terms of office of the state's attorney. **7-7-12**

SCHOOL AND PUBLIC LANDS

- **Public lands subject to drainage laws--Service of notices--Appearance by board or officer in charge.** All state public or school lands are subject to drainage laws. In any drainage proceeding affecting such lands, notices required by law to be given by publication and posting shall be served upon the commissioner of school and public lands at least thirty days before the time of the hearing. Such service may be made upon the commissioner in person, by service at the commissioner's office with the person in charge, or by registered or certified mail. If the land affected by the drainage proposal is not under the commissioner's control, the commissioner shall transmit a copy of the notice to the board or officer in charge of the land. The board or officer in charge of the land may appear at any such hearing or proceeding on behalf of the state. **46A-10A-56**

- **Distribution of payments in lieu of taxes.** The county auditor shall distribute federal and state payments in lieu of tax proceeds in the same manner as taxes are distributed. **5-11-6**

SETTLEMENT OF ACCOUNTS BY OFFICERS RECEIVING FUNDS Ch 7-23

- **Settlement by county officers for funds received--Payment into treasury.** All treasurers, sheriffs, clerks, constables, and other officers chargeable with money belonging to any county shall render their accounts to and settle with the board of county commissioners at the time required by law and pay into the county treasury any balance which may be due the county, take duplicate receipts therefor, and deposit one of the same with the county auditor within five days thereafter. **7-23-6**

- **Adjustment of accounts of delinquent officers--Forfeiture for delinquency.** If any person thus chargeable shall neglect or refuse to render true accounts or settle, such board shall adjust the accounts of such delinquent according to the best information it can obtain, and ascertain the balance due the county, and order suit to be brought in the name of the county therefor; and such delinquent shall not be entitled to any commission and shall forfeit and pay to the county a penalty of twenty percent on the amount of funds due the county. **7-23-7**

SEVERANCE TAXES Ch 10-39

- **Severance tax on gold.** For the privilege of severing precious metals in this state, there is imposed a severance tax of four dollars per ounce of gold severed in this state. **10-39-43**

- **Imposition of tax on net profit--Rate.** In addition to any other tax imposed in chapter 10-39, there is imposed a tax of ten percent of the net profits from the sale of precious metals severed in this state. **10-39-45.1**

- **Distribution of proceeds.** All taxes, interest and penalties imposed and collected by the secretary of revenue under this chapter shall be distributed as follows:

- (1) For persons severing precious metals that were in business in the state prior to January 1, 1981, all revenues collected shall be deposited in the state treasury and credited to the general fund;

- (2) For persons permitted on or after January 1, 1981, for the purpose of severing precious metals, eighty percent of the revenues collected shall be deposited in the state treasury and credited to the general fund, while the remaining twenty percent shall be remitted by the secretary of revenue to the treasurer of the county in which the precious metals were severed. When the county has received a total of one million dollars attributable to any person subject to the tax, all future revenues attributable to that person shall be deposited in the state treasury and

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credited to the general fund. No merger, consolidation or acquisition of a person subject to §§ 10-39-54 to 10-39-54.4, inclusive, by another such person shall limit the share of revenue due to the county from the person so acquired. However, any revenues attributed to the severance of precious metals from lands owned or controlled by the State of South Dakota shall be deposited in the common school permanent fund. **10-39-54**

- ***Allocation of funds by county--Purposes.*** The county auditor shall, at the direction of the board of county commissioners, allocate funds received by the county pursuant to §§ 10-39-54 to 10-39-54.4, inclusive, to be distributed by the county treasurer for the following purposes in the indicated amounts:

- (1) On a yearly basis, the board of county commissioners may allocate funds, in an amount not exceeding one hundred thousand dollars, for road and school purposes to offset social, economic, or physical impacts, either direct or indirect, resulting from mineral development or production in the county;

- (2) Accumulated interest income earned on the principal of the fund may be allocated under terms and conditions to be determined by the board of county commissioners for the purpose of fostering the diversification and expansion of the economic base of the county by assisting the private sector in generating employment and income opportunities for county residents;

- (3) As a result of either a severe economic impact that would have widespread negative income and employment consequences on the residents of the county or the presence of an unusual economic development opportunity that would have a significant positive impact on the economic base and income or employment levels of the county, the commissioners may allocate any amount of revenue contained in the fund. Any funds spent pursuant to this subdivision shall be based upon a credible feasibility analysis or mitigation plan and shall have the approval of the Governor's Office of Economic Development or any successor agency that is charged with promoting economic development in the state;

- (4) A maximum of ten thousand dollars per year may be allocated for research activities that will foster the expansion and diversification of the economic base of the county, including but not limited to economic feasibility studies, recreation planning and land utilization studies designed to analyze potential, adaptive reuse of previously reclaimed mining land.

10-39-54.3

SEVERANCE TAX - ENERGY MINERALS Ch 10-39A

- ***Severance tax imposed on energy minerals--Rate.*** For the privilege of severing energy minerals in this state, there is imposed on the owner or operator of any energy mineral an excise tax, to be termed a "severance tax," equal to four and one-half percent of the taxable value of any energy minerals severed and saved by or for the owner or operator. 10-39A-1

- ***Definition of terms.*** Terms used in this chapter mean:

- (1) "Energy minerals," any mineral fuel including coal, lignite, petroleum, oil, natural gas, uranium, and thorium and any combination of minerals used in the production of energy;

- (2) "Market value," the price at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the facts;

- (3) "Operator," a person who directly or physically severs minerals from the land;

(4) "Owner of interest" or "owner," an owner of a landowner's royalty, of an overriding royalty, or of profits and working interests, or any combination thereof. The term does not include an owner of federal, state, or local governmental royalty interest;

(5) "Sale price," the total consideration received in exchange for energy minerals;

(6) "Secretary," the secretary of the South Dakota Department of Revenue;

(7) "Severing," the mining, extracting, or producing of any energy minerals in South Dakota;

(8) "Severor," a person engaging in the business of severing energy minerals that the person owns or a person who is the owner of energy minerals and has another person performing the severing of such energy minerals, except that the term does not include the State of South Dakota or its political subdivisions. **10-39A-1.1**

• ***Taxable value based on sale price or market value--Governmental royalty interests deducted.*** Except as otherwise provided in this chapter, the taxable value of any energy mineral which has been sold is the sale price of such mineral less any rental or royalty payment belonging to the United States or the State of South Dakota or its political subdivisions and the taxable value of any severed and saved energy mineral which has not been sold is the market value of such mineral less any rental or royalty payment belonging to the United States or the State of South Dakota or its political subdivisions. **10-39A-2**

• ***Proceeds distributed.*** All taxes, interest and penalties imposed and collected by the secretary under this chapter shall be distributed as follows:

(1) One-half shall be returned to the county in which the energy minerals or mineral products were severed; and

(2) One-half share shall be paid into the state treasury and credited to the general fund. **10-39A-8**

• ***County trust and agency account--Purposes for which proceeds used by counties.*** Upon receipt of any funds paid to a county under the provisions of this chapter, the county treasurer shall deposit the funds in a trust and agency account. The county auditor shall at the direction of the board of county commissioners, allocate the funds to be distributed by the county treasurer for school and road purposes to offset social, economic, or physical impacts, either direct or indirect, resulting from energy development or production in the county. **10-39A-10**

• ***Action by secretary for collection of delinquent taxes--Exemption from execution.*** All delinquent taxes imposed by this chapter shall constitute a debt due to the State of South Dakota and may be collected by action brought by the secretary in the name of the state against the delinquent tax debtor in any court of competent jurisdiction. No exemptions from the execution of a judgment so obtained may be permitted except those made absolute by the exemption laws of this state. **10-39A-16**

SHEEP: Refer to → PREDATOR CONTROL

■ *Laws of Governing*

SHERIFFS

- ***Sheriff to preserve the peace--Apprehension of felons--Execution of process.*** The sheriff shall keep and preserve the peace within the county. The sheriff may call to aid any person or power of the county as the sheriff deems necessary. The sheriff shall pursue and apprehend all felons, and shall execute all writs, warrants, and other processes from any court or magistrate for which the sheriff has the legal authority. **7-12-1**
- ***Office at county seat--Service and posting of notices.*** The sheriff shall keep the office at the county seat, serve or post all notices received from the county auditor or the board of county commissioners, and perform other duties as prescribed by law. **7-12-2**
- ***Compliance with attorney general's orders--Enforcement of laws.*** The sheriff shall comply with all orders of the attorney general and at all times, whether on duty under the call of the attorney general or not. The sheriff shall faithfully execute and enforce all the laws of this state and especially all laws relating to alcoholic beverages. **7-12-4**
- ***Deputies, jailers, and clerks authorized by county commissioners--Compensation.*** If in the judgment of the board of county commissioners, it shall be necessary for the prompt dispatch of business in the office of the sheriff that one or more deputies, jailers or clerks be appointed therein, the board shall by resolution fix the number of such deputies, jailers or clerks and the compensation which they shall receive. The salary of each clerk, jailer and deputy shall be paid out of the county general fund. **7-12-9**
- ***Vehicles and equipment furnished to sheriff by county--Mileage payments not made.*** Any county may, at the discretion of the board of county commissioners, furnish any motorcycle, automobile, truck or other vehicle, uniforms and other equipment to the sheriff or his deputies, or both, for law enforcement purposes only. In those counties furnishing motor vehicles, notwithstanding the provisions of this chapter for mileage payments in lieu of expenses, no mileage payments may be paid to sheriffs, deputy sheriffs or other county law enforcement personnel for whom motor vehicles are furnished. **7-12-12**
- ***Fees and traveling expenses chargeable by sheriff.*** The sheriff shall charge and remit the following:
 - (1) For serving an order of arrest with commitment or bail bond and return, twenty-five dollars;
 - (2) For serving summons, complaint, warrant of attachment, affidavit, notice and undertaking in claim and delivery, or injunction, order to show cause, citation, or other process, and return of the instrument, fifty dollars for all such process or instruments served at the same time upon the same person regardless of the capacities in which such person is served. However, for all such process or instruments served upon another such person at approximately the same time at the same place, ten dollars;
 - (3) For serving subpoena for witness, each person, twenty dollars;
 - (4) For traveling expenses in a motor vehicle, a mileage allowance of eight cents above the rate set for state employees by the State Board of Finance for each mile actually and necessarily traveled by motor vehicle. For traveling expenses in a private plane, a mileage allowance of ten cents above the rate set for state employees by the State Board of Finance for each mile actually and necessarily traveled by private plane. However, actual cost may be paid for travel by train, bus, plane, or other commercial vehicle;
 - (5) For serving writ of execution and return of the instrument, whether satisfied or

unsatisfied, ninety-five dollars;

(6) For levying writ of possession, fifty dollars. However, if the sale of the property levied upon is not subsequently held, the actual costs or expenses associated with levying writ of possession shall be paid;

(7) For advertisement of sale in newspaper, in addition to printing, twenty-five dollars;

(8) For posting notices of sale of real property, twenty-five dollars, and mileage;

(9) For executing writ or order of partition, twenty-five dollars;

(10) For making deed for land sold on execution or order of sale, one hundred dollars except no fee is charged when the deed only requires the sheriff's signature;

(11) In addition to the applicable fees and expenses, a commission of six percent on all money received and disbursed by the sheriff on execution or order of sale, order of attachment, decree or on sale of real property or personal property. However, in no case may the commission be less than fifty dollars or more than three thousand five hundred dollars. If the execution or order of sale is a foreclosure of a real estate mortgage, the commission may not be more than one thousand five hundred dollars. The commissions shall be included as a part of the cost of execution, order of sale, order of attachment, decree, or on sale of real or personal property, which shall be paid by the debtor out of the proceeds. However, in each case of redemption prior to the sale, the sheriff is entitled to the commission as stated above, to be paid by the redemptioner as a cost of the redemption;

(12) For a case in the circuit court, if a person, in whose favor an execution or order of sale is issued, bids on the property sold on execution or decree, the sheriff or officer making the sale shall receive the following compensation: if the amount for which the property is bid on is one thousand dollars or less, the sum of forty dollars; and if the amount for which the property is bid on is more than one thousand dollars, the sum of one hundred dollars;

(13) For making a sale of real property under a foreclosure of mortgage by advertisement, the same fees as for the sale of real property under a judgment of foreclosure and sale of real property; and

(14) If personal property is taken by the sheriff on execution or warrant of attachment and applied in the satisfaction of the debt without sale, the same percentage on the appraised value of the property as in the case of a sale and all additional reasonable and necessary costs and expenses incurred in executing the duties of sheriff including expenses associated with the removal of property from the premises. No fee may be charged in any action under § 25-10-3, 25-10-6, 22-19A-8, or 22-19A-12. The fees established pursuant to this section shall be used for law enforcement purposes. **7-12-18**

- ***Prisoner transportation expenses--State reimbursement.*** The county shall pay all necessary expenses, including travel, incurred in the transportation of adult and juvenile prisoners to state correctional institutions. The county may be reimbursed by the state from funds appropriated for such purpose. **7-12-22**

- ***Reimbursement of sheriff and deputies paid from county general fund.*** All claims for reimbursement of the sheriff, deputies, and clerks arising from official duties of such county officials, as provided by law, shall be paid from the general fund of the county by the board of county commissioners. **7-12-27**

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- ***Taking and holding animal suspected of being dangerous--Formal determination--Disposal of dangerous animal.*** The sheriff may take possession of any animal suspected of being dangerous. The sheriff may hold such animal until a formal determination can be made of the extent of the danger such animal poses. If the animal has attacked or bitten a human or an animal pet, the formal determination shall include consultation with the department of health for the purposes of rabies control. The sheriff may dispose of any animal so determined to be dangerous. **7-12-29**
- ***Action against sheriff, coroner, or constable--Action for statutory penalty or forfeiture--Action for personal injury.*** Except where, in special cases, a different limitation is prescribed by statute, the following civil actions other than for the recovery of real property can be commenced only within three years after the cause of action shall have accrued:
 - (1) An action against a sheriff, coroner, or constable upon a liability incurred by the doing of an act in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution. But this subdivision shall not apply to an action for an escape;
 - (2) An action upon a statute for a penalty or forfeiture where the action is given to the party aggrieved, or to such party and the state except where the statute imposing it prescribes a different limitation;
 - (3) An action for personal injury. **15-2-14**
- ***Actions for libel, slander, assault, battery, or false imprisonment--Actions for statutory forfeitures or penalties--Actions concerning wages.*** Except where, in special cases, a different limitation is prescribed by statute, the following civil actions other than for the recovery of real property can be commenced only within two years after the cause of action shall have accrued:
 - (1) An action for libel, slander, assault, battery, or false imprisonment;
 - (2) An action upon a statute for a forfeiture or penalty to the state;
 - (3) An action for wages regulated by either state or federal statute or for a penalty or liquidated damages for failure to pay wages regulated by either such state or federal statute;
 - (4) An action for wages or for a liability or penalty for failure to pay wages in accordance with the provisions of any contract or statute. **15-2-15**
- ***Actions for escape of prisoner arrested on civil process--Statutory forfeiture or penalty--Petty offense.*** Except where, in special cases, a different limitation is prescribed by statute, the following civil actions other than for the recovery of real property can be commenced only within one year after the cause of action shall have accrued:
 - (1) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process;
 - (2) An action upon a statute for a penalty or a forfeiture given in whole or in part to any person who will prosecute the same; but if such action be not commenced within such year by a private person, it may be commenced within two years thereafter in behalf of the state by the state's attorney where the offense was committed;
 - (3) An action against a person for the violation of a statute, which violation is a petty offense. **15-2-17**
- ***Persons disqualified as bail bondsmen--Violation as felony.*** The following persons or classes may not be bail bondspersons or runners and may not directly or indirectly receive any benefits from the execution of any bail bond: jailers, police officers, committing magistrates,

magistrate court judges, sheriffs, deputy sheriffs, and constables, any person having the power to arrest or having anything to do with the control of federal, state, county, or municipal prisoners. Violation of this section is a Class 6 felony. **58-22-3**

- **Notice to sheriffs of discontinuance of business during license period--Return of license for cancellation.** Any bail bondsperson who discontinues writing bail bonds during the period for which licensed shall notify the sheriffs with whom registered and return the license to the director for cancellation within thirty days from such discontinuance. **58-22-26**

- **Report to sheriff of gunshot wounds treated.** Any person treating any bullet wound, gunshot wound, powder burn, or any other injury arising from or caused by the discharge of any firearm, shall report such treatment to the sheriff of the county in which the wound is treated.

23-13-10

- **Fingerprints to be taken and forwarded on arrests--Failure of officer to take and report as misdemeanor.** The sheriffs, chiefs of police, marshals of the municipalities, and any other law enforcement officers and peace officers of the state, immediately upon the arrest of any person for a felony or misdemeanor, exclusive of those exceptions set forth in § 23-5-1, shall take such person's fingerprints according to the fingerprint system of identification established by the Division of Criminal Investigation, on forms furnished by the division and shall forward the fingerprints together with other descriptions as may be required with a history of the offense alleged to have been committed, to the division for classification and filing. However, in the case of a Class 2 misdemeanor, exclusive of those exceptions set forth in § 23-5-1, if the arresting officer reasonably believes that the person arrested does not present a danger to self or others and will appear in response to a summons, the arresting officer may, without complying with the provisions of this section, release the person arrested with a summons to appear; and the person arrested shall present himself or herself to the law enforcement agency issuing the summons for fingerprinting prior to the initial court appearance. Any person who fails to appear for fingerprinting in compliance with this section shall be proceeded against by warrant. A copy of the fingerprints of the person arrested, shall be transmitted forthwith by the arresting officer to the Federal Bureau of Investigation in Washington, D.C. Any officer required by this section to take and report fingerprint records, who fails to take and report the records required by this section, is guilty of a Class 2 misdemeanor. **23-5-4**

- **Cooperation of division with local peace officers.** It shall be the duty of the Division of Criminal Investigation to cooperate with the various sheriffs, constables, policemen, and other peace officers of this state in performance of their duties relating to crime and criminal proceedings. **23-3-14**

- **Suspension of state's attorney or sheriff pending prosecution.** If any state's attorney or sheriff is arrested for or charged with any offense against the laws of this state or the United States of America, and the Governor is informed that criminal proceedings are pending before any court or officer, the Governor shall in the case of a felony and may in the case of a misdemeanor suspend that state's attorney or sheriff from office until such charge is prosecuted. The effect of such a suspension is to relieve the affected state's attorney or sheriff from all responsibilities provided by law which are pertinent to that position. **3-17-12**

- **Compensation of acting state's attorney or sheriff.** The county in which an attorney is temporarily appointed state's attorney or a person is temporarily appointed sheriff shall pay such appointee for his services and expenses in an amount determined and fixed by the Governor and certified to the county auditor of the affected county. **3-17-15**

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- ***Law enforcement officers to enforce game and fish laws.*** The state's attorney, sheriff, constables, and other peace officers shall enforce the game and fish laws of the state. **41-15-3**
- ***Officer in charge of jail--Conformance to policies and procedures.*** The sheriff or other officer designated by law or ordinance shall have charge of the jail of his county or municipality and of all persons by law confined therein. The officer in charge of any jail shall conform in all respects to the policies and procedures required by § 24-11-23. **24-11-13**
- ***Jail records to be maintained.*** The sheriff or other officer having charge of any jail shall keep jail records. These records shall be carefully kept and preserved and delivered to such officer's successor in office. The officer shall exhibit these records to any judge of the circuit court, if requested to do so, and to the Department of Corrections for the purposes on monitoring compliance with the requirements of the Juvenile Justice and Delinquency Prevention Act pursuant to § 1-15-28. **24-11-16**
- ***Duty of sheriff to keep commitment orders and like documents--Copies of returns--Return as prima facie evidence of right to confine prisoner.*** All instruments of every kind, or attested copies thereof, by which a prisoner is committed or liberated, shall be regularly endorsed, filed, and safely kept by the sheriff or officer acting as jailer, and shall be delivered to his successor in office. When a prisoner is confined by virtue of any process directed to the sheriff or other officer, and which shall require to be returned to the court whence it issued, such sheriff or officer shall keep a copy of the same, together with his return made thereon, which copy, duly certified by such sheriff or other officer, shall be prima facie evidence of his right to retain such prisoner in custody. **24-11-17**
- ***Service by sheriff on circuit court juror failing to return acceptance of service--Fees deducted from juror's compensation.*** If any juror residing in the county shall fail, neglect, or refuse to sign the acceptance of service provided in § 16-13-34 and to mail such acceptance to the clerk of courts within fifteen days after service of the notice on said juror, the notice shall be served on such juror by the sheriff. The amount of the sheriff's fees shall be endorsed on the notice with the return of the sheriff, and the amount of such fees shall be paid by such juror and shall be deducted by the clerk of courts from the compensation the juror would be entitled to receive for his attendance before the court. **16-13-35**
- ***Burial or burning of carcasses by sheriff on board order--Access to premises.*** The sheriff of each county shall cause to be buried or burned the carcasses of all animals remaining unburied, unburned, or otherwise undisposed of after notice from the Animal Industry Board that such carcasses have remained unburied, unburned, or otherwise undisposed of. The sheriff may enter upon any premises where any such carcass is for the purpose of carrying out the provisions of this section. **40-5-16**
- ***Compensation of sheriff for disposal of carcasses--Recovery of expenses from owner.*** The board of county commissioners shall allow such sums for services pursuant to § 40-5-16 as they deem reasonable and the sheriff shall be paid upon vouchers, as other claims against the county are paid. The owner of such animal is liable to the county for the expense of such burial or burning, to be recovered in a civil action, unless the owner thereof pays such expenses within thirty days after notice and demand. **40-5-17**
- ***Personal service of petition and notice of hearing--Contents of notice.*** Copies of the petition and notice of hearing shall be personally served forthwith on the person prior to the hearing by the sheriff, or a constable, or an elector of any state not a party to the action that is specifically designated by the board. The notice of hearing shall include the following:

- (1) Notice of the time, date, and place of hearing;
- (2) Notice to the person of the right to be represented by an attorney retained by the person or appointed by the chair of the board wherever the hearing is to be held;
- (3) Notice that the person will be examined by a qualified mental health professional or physician designated by the chair of the county board within twenty-four hours of being taken into custody;
- (4) Notice that the medical records of the person will be available to the qualified mental health professional or physician and defense lawyer; and
- (5) Notice of the right of the person to obtain an additional examination, the reasonable expense of which shall be reimbursed to the county by the person unless the person is indigent. **27A-11A-5**

- ***Sheriff's and witnesses' fees.*** The sheriff shall be allowed the same fee as for like services in other cases. The witnesses shall be allowed the same fees as the witnesses in the circuit court. **27A-11A-6**

- ***Seizure of property by sheriff--Safekeeping and delivery.*** Upon receipt of the affidavit, endorsement, undertaking, and order authorizing delivery specified in §§ 21-15-2 to 21-15-4, inclusive, the sheriff shall forthwith take the property described in the affidavit, if it be in the possession of the defendant or his agent, and retain it in his custody. He shall keep it in a safe place and deliver it to the party entitled thereto upon receiving his lawful fees and necessary expenses for keeping the same. **21-15-6**

- ***Sheriff's report of proceedings--Papers attached--Contempt and amercement or civil action for failure or neglect.*** Within twenty days after taking the property, the sheriff shall make a verified report of his proceedings in taking and disposing of it, and file the same together with the original affidavit, order authorizing delivery, undertaking, or receipt, and a copy of his notice of levy, with the clerk of the court in which the action is pending. The failure or neglect of the sheriff to make such verified report of his proceedings and file the same in the office of the clerk with the other documents above specified in the manner and within the time above required shall not however void his proceedings under the affidavit and endorsement but shall render him liable to punishment by the court as for contempt and liable by amercement or civil action to any person thereby injured in like manner as is provided with reference to writs, warrants and executions by § 15-18-44. **21-15-16**

- ***Issuance of distress warrant--Collection and remittance of tax--Compensation for sheriff--Accounts subject to seizure.*** After a notice of lien has been filed as provided in § 10-59-11, the secretary may at any time require the county treasurer to issue a distress warrant in the manner provided in chapter 10-56. Immediately upon receipt of the warrant the sheriff shall proceed to collect the tax, penalty, or interest due by seizure and sale of personal property as provided in chapter 10-56. The sheriff shall remit the amount collected to the county treasurer who shall remit the money to the Department of Revenue. For such service the sheriff may collect from the taxpayer and retain the compensation provided in chapter 10-56, but the sheriff's compensation may not be deducted from any taxes, penalty or interest collected. Checking, savings and similar accounts are personal property and are subject to seizure by the sheriff for the purpose of satisfying the distress warrant. **10-59-13**

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SIGNATURES

- ***Signing, attestation, and filing of final budget.*** The resolution together with the budget as approved and adopted shall be signed by the members of the board, attested by the county auditor and filed in the office of the county auditor, and such budget, after approval and adoption, shall be known as the "annual budget for the fiscal year, beginning January 1st, 20____, and ending December 31st, 20____." **7-21-13**
- ***Forms of deposit--Crediting of interest from deposits--Signatures required on checks.*** All moneys shall be deposited in such banks in demand accounts, savings accounts, or on time deposit, and any interest accrued from such deposits shall be credited to the respective funds or the general fund. All such demand deposits are subject to payment if demanded by the county treasurer on the county treasurer's check, countersigned by the county auditor. **7-20-9**
- ***Initiative petition--Form and contents.*** The right to propose an ordinance or resolution shall be exercised by filing with the auditor a petition in proper form containing the proposed ordinance or resolution, signed by the required number of qualified voters of the county. The signer or circulator of the petition shall add the signer's place of residence and the month and day of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. **7-18A-11**
- ***Reading, signing, filing, and publication required.*** The title of all ordinances shall be read twice with at least five days intervening between the first and second reading. Any ordinance shall be signed by the chairman of the board or the acting chairman, filed with the county auditor and published once. However, an ordinance incorporating and adopting comprehensive regulations or a code promulgated, approved, and published by a recognized and established national organization prescribing building, electrical, plumbing, safety, fire, or health regulations need not be published in a newspaper, but, upon adoption of such an ordinance, the auditor shall publish a notice of the fact of adoption once a week for two successive weeks. **7-18A-5**
- ***Signature requirements for referendum petition--Verification.*** Voters signing a referendum petition shall comply with the requirements of § 7-18A-11, and it shall be verified in accordance with § 7-18A-12. **7-18A-18**
- ***Referendum petition--Number of signatures required--Emergency measures excepted.*** Any ordinance or resolution adopted by a board of county commissioners may be referred to a vote of the qualified voters of the county by the filing of a petition signed by five percent of the registered voters in the county, based upon the total number of registered voters at the last preceding general election, except such ordinances and resolutions as may be necessary for the immediate preservation of the public peace, health, or safety, or for the support of the county government and its existing public institutions. **7-18A-15**

SNOW REMOVAL AND SPECIAL EMERGENCY RESERVE FUND

- ***Accounting for expenditures from fund.*** The county highway superintendent shall keep in a separate record book a detailed account of all money expended from the county snow removal and special emergency reserve fund directly relating to snow removal, snow damage, prevention of snow accumulation, or purchase and repair of snow removal equipment, showing exact amounts, dates, places, type, and nature of work performed. The expenditure of any other money from said fund as provided in § 34-5-3 shall be accounted for in detail in such a manner as the board of county commissioners shall provide. **34-5-6**

- **County levy for snow removal and special emergency reserve fund--Collection of levy.** The board of county commissioners may establish a county snow removal and special emergency reserve fund by the levy of a tax up to but not exceeding one dollar and twenty cents per thousand dollars of taxable valuation within the county. The tax levy authorized by this section is in addition to all other county tax levies. All money collected and received under the provisions of this tax levy shall be remitted at the times and in the manner required by the laws of this state relating to counties. **34-5-2**
- **Authorization and approval of money paid from fund.** All money allowed and paid from a fund established under § 34-5-2 shall first be authorized and approved by the board of county commissioners and, in operations directly relating to snow removal, snow damage, or prevention of snow accumulation, or purchase and repair of snow removal equipment, the county highway superintendent. **34-5-5**

SOLID WASTE MANAGEMENT Ch 7-33 & 34A-6

- **Agreements for system authorized.** The board of county commissioners of a county may enter into agreements with other counties, one or more municipalities, townships, governmental agencies, with private persons, trusts, or with any combination thereof to provide a solid wastes management system for all participating counties, an individual county, or any portion thereof. **7-33-2**
- **County approval required for solid waste or medical waste transportation, storage, treatment or disposal.** Any application to the Board of Minerals and Environment or the secretary for a new permit or first authorization to operate under a general permit for a facility for the transportation, storage, treatment, or disposal of solid waste or medical waste pursuant to this chapter shall include a resolution by the governing body of the county in which the facility is to be located approving the proposed facility. Approval by the county within no more than twenty-four months before the issuance of the new permit or first authorization by the Board of Minerals and Environment or the secretary is a condition for the issuance of the permit or authorization. Approval granted under this section may only be rescinded by the county before the new permit or first authorization is issued and only if a significant change in the size, purpose, or location of the proposed facility has occurred. **34A-6-103**
- **Lease or purchase of land, facilities and vehicles authorized.** The board of county commissioners is authorized to contract for the lease or purchase of land, facilities and vehicles for the operation of a solid wastes management system either for the county or as a party to a regional solid wastes authority. **7-33-3**
- **Acceptance of grants and gifts.** The board of county commissioners shall be authorized to accept, receive, and administer grants or other funds or gifts from private and public agencies, including the federal government, for the development and operation of a solid wastes management system. **7-33-5**
- **Tax levies and charges authorized--Licenses.** The board of county commissioners shall have the authority to levy and collect such taxes, fees, or charges, and require such licenses as may be appropriate to discharge their responsibility for a solid wastes management system or any portion thereof. **7-33-4**
- **Commissioners authorized to provide system.** The board of county commissioners in each county of the state is authorized to plan, organize, and provide a solid wastes management system to adequately handle solid wastes generated or existing within the boundaries of such

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county. **7-33-1**

- ***Solid waste evaluation.*** Each county and first class municipality shall prepare or have prepared, on or before January 1, 1993, a solid waste evaluation coordinated with the state solid waste management plan. The evaluation shall cover a fifteen-year time period, shall serve as the basis for county and municipal decisions on the need for facilities, and shall be provided to the board for its consideration in determining whether to issue facility permits under § 34A-6-1.13. The evaluation shall include an analysis of the current and projected volume of solid waste, disposal capacity including all existing and planned facilities, the potential for source reduction, reuse, recycling, resource recovery, and shared and regional recycling and waste management facilities. The evaluation shall include a full accounting of the true and total cost, including the long-term costs, of all options analyzed in the evaluation. Counties and municipalities subject to this section shall consider in their solid waste evaluation, 40 CFR parts 257 and 258 of the environmental protection agency solid waste disposal criteria commonly known as "RCRA subtitle D regulations," as finally adopted and published in the Federal Register on October 9, 1991, and as amended to January 1, 2011; the statewide comprehensive solid waste management plan; and all rules promulgated by the board. **34A-6-70**

- ***Responsible units of governments--Evaluation of capacity.*** Each county and first class municipality shall be the responsible unit of government for preparing the solid waste evaluation required under § 34A-6-70. The responsible unit shall evaluate capacity to meet the solid waste management needs of the unit for a period of at least fifteen years. Capacity shall be sufficient to meet the requirements of state law and all applicable requirements of the United States Environmental Protection Agency. The evaluation shall be submitted to the department on or before January 1, 1993, and shall provide details of a local recycling program which shall contain a methodology for meeting the state source reduction and recycling goal pursuant to § 34A-6-60 and a methodology for implementing a program of separation of wastes including yard waste, glass, plastic, paper, and metal. **34A-6-73**

SPECIAL EVENTS

- ***Special events--Permits.*** A county may require that the promoters of a special event secure a permit from the county before a special event may be conducted within the county unless the special event is carried on exclusively within the boundaries of a municipality. For the purposes of this section, a special event includes a fair, carnival, concert, public exhibition, or similar gathering except for special events sponsored, in whole or in part, by an accredited South Dakota educational institution. The promoter of a special event shall apply to the county treasurer upon forms provided by the county treasurer for a permit required by this section. The board of county commissioners may by resolution establish fees for a special event permit. **7-18-22**

STATE'S ATTORNEYS Ch 7-16

- ***Election at general election--Oath and bond--Licensed attorney required.*** A state's attorney shall be elected in each organized county of this state at each general election, who shall qualify by taking the oath of office and giving a bond as provided by law. No person shall be eligible to the Office of State's Attorney who is not duly licensed to practice as an attorney and counselor at law by the Supreme Court of this state. **7-16-1**

- ***Appointment, qualifications, and powers of deputy attorneys.*** The state's attorney may appoint one deputy or limited deputy who shall be a duly licensed attorney and counselor at law having the qualifications required of state's attorneys, and if authorized by the board of county commissioners by resolution duly entered upon its minutes, the state's attorney may appoint one or more additional deputies or limited deputies, each of whom shall likewise be a duly licensed attorney and counselor at law having the qualifications required of state's attorneys. During such deputyship the person so appointed shall be vested with all the powers of the state's attorney, subject to the control of the state's attorney. A limited deputy shall be vested with only those powers specifically delegated by the state's attorney in writing at the time of his appointment, shall serve at the pleasure of the state's attorney and be under his supervision and control. **7-16-3**
- ***Employment of paralegal and secretarial assistance.*** A state's attorney may employ a paralegal assistant and secretarial assistance as is necessary for the efficient operation of his office. The employment of assistance is subject to prior approval of the board of county commissioners, who shall determine the compensation that the employees receive. **7-16-7.1**
- ***Prosecution and defense of actions for state and county--Proceedings outside county or in federal court.*** The state's attorney shall appear in all courts of his county and prosecute and defend on behalf of the state or his county all actions or proceedings, civil or criminal, in which the state or county is interested or a party. No state's attorney is required to appear in courts outside his county to prosecute and defend on behalf of the state or his county, any action or proceeding, civil or criminal, in which the state or county is interested or a party, except as required under § 7-16-15. If a part-time state's attorney appears in courts outside his county or in federal courts to represent the state or his county, he may receive extra compensation for the legal services pursuant to § 7-16-6. **7-16-9**
- ***Deposit and accounting for fines, penalties, and costs received--Failure to account as theft.*** The state's attorney shall pay over to the county treasurer all money he may receive as such state's attorney within ten days after he receives it and shall file with the county auditor a complete list of the amount so paid showing all fees and costs received in civil actions in which the county is the successful party, as well as all fines, recognizances, forfeitures, penalties, or costs received by him, specifying in each instance the name of each person from whom he may have received such money, the particular amount paid by each person, and the cause for which each payment was made. A state's attorney who neglects to account for or pay over the money received by him as required by this section is guilty of theft. **7-16-21**
- ***State's attorney's appeal from action of county commissioners.*** Upon written demand of at least fifteen taxpayers of the county, the state's attorney shall take an appeal from any action of such board if such action relates to the interests or affairs of the county at large or any portion thereof, in the name of the county, if he deems it to the interest of the county so to do; and in such case no bond need be required or given and upon serving the notice provided for in § 7-8-29, the county auditor shall proceed the same as if a bond had been filed and his fees for making the transcript shall be paid as other claims by the county. **7-8-28**
- ***Attorney general--Jurisdiction concurrent with state's attorneys.*** In any and all criminal proceedings in any and all courts of this state and in any county or part of the state, the attorney general shall have concurrent jurisdiction with the state's attorney or state's attorneys of the several counties of the state. **23-3-3**

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- ***Duties of state's attorney in criminal matters unaffected by authority of attorney general.*** Nothing contained in § 23-3-3 or 23-3-4, however, shall relieve the state's attorneys from any duty now enjoined upon them by law nor relieve them from the duty of assisting state officials in conduct of criminal proceedings in their respective counties. **23-3-5**
- ***Autopsy ordered by state's attorney, sheriff, or coroner.*** If a state's attorney or a sheriff or a coroner has reason to believe that a deceased person may have died in his or her jurisdiction by unlawful means, the state's attorney, sheriff, or coroner may order and direct a physician or surgeon to perform an autopsy. If in the public interest, the county coroner may order an autopsy on those deaths falling within the county coroner's jurisdiction mentioned in subdivisions 23-14-18(1) to (5), inclusive. **23-14-9.1**
- ***(Child Abuse) - Investigation of oral report--Other action permitted--Appointment of attorney--Compensation.*** Upon receipt of a report pursuant to § 26-8A-8, the Department of Social Services or law enforcement officers shall investigate. Investigating personnel may personally interview a child out of the presence of the child's parents, guardian, or custodian without advance notice or consent. The investigation does not prohibit any other lawful action. If the investigation and report indicate that child abuse or neglect has occurred, the state's attorney shall take appropriate action immediately. The court may appoint an attorney, guardian ad litem, or special advocate to assist in representing the best interests of the child. Any such appointment shall occur in the manner the county in which the action is being conducted has chosen to provide indigent counsel under § 23A-40-7. Compensation and expense allowances for the child's attorney, guardian ad litem, or special advocate shall be determined and paid according to § 26-7A-31. **26-8A-9**
- ***Prosecution of actions by public authorities for child support.*** It shall be the duty of the state's attorney to commence and prosecute forthwith all actions and proceedings, civil or criminal, brought by the authorities charged with the support of any legitimate or illegitimate child for the recovery and enforcement of support for such child, including actions commenced under chapter 25-9A. **7-16-13**
- ***(Consumer Protection) - State's attorneys to assist--Action by state's attorney.*** It shall be the duty of state's attorneys to render to the attorney general such assistance as the attorney general may request in the commencement and prosecution by the attorney general of actions pursuant to this chapter. The state's attorney with prior approval of the attorney general may institute and prosecute actions hereunder in the same manner as provided for the attorney general and shall make a full report thereon to the attorney general, including the final disposition of the matter. **37-24-24**
- ***(Dependent And Neglected Children) - Probation officers authorized to file complaints--Assistance by state's attorney--General powers of state's attorney unimpaired.*** Probation officers having the powers of peace officers, as well as state's attorneys, shall have the right and be vested with all power necessary to file complaints against any person under § 26-9-1 and to prosecute any such case. In all such cases it shall be the duty of the state's attorney to prepare any such complaints and prosecute any such cases for such probation officer when so requested by such officer or the judge of the circuit court; but nothing herein shall be construed to interfere with any state's attorney prosecuting such cases under this or any other law as in other criminal cases. **26-9-4**

- **Domestic abuse training for state's attorney or deputy state's attorney.** Any state's attorney or deputy state's attorney shall attend training on the following issues pertaining to domestic abuse: enforcement of criminal laws in domestic abuse situations; availability of community resources; and protection of the victim. After initial training, each state's attorney or deputy state's attorney shall attend further training at least once every four years. **23-3-39.6**
- **Law enforcement and cooperation by Division of Criminal Investigation and state's attorneys.** It is hereby made the duty of the Division of Criminal Investigation, its officers, agents, inspectors, and representatives, and of all state's attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to controlled drugs and substances. **34-20B-61**
- **(Escheat) - State's attorney to assist on request by attorney general.** Whenever requested by the attorney general, the state's attorney of any county shall assist in the investigation, preparation, and trial of any escheat proceedings or appeals involving the same in the circuit or Supreme Court, when property located in his county is involved. **21-36-6**
- **(Feeds) -Prosecution by state's attorney--Opportunity for hearing before report of violation.** It shall be the duty of each state's attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the secretary of agriculture and natural resources reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the secretary. **39-14-77**
- **Full-time position--Private practice prohibited.** In counties of over fifty thousand population and any other county where the board of county commissioners so designates, the state's attorney shall be a full-time position and the state's attorney may not be counsel or attorney in any action, civil or criminal, in the courts of this state except when acting on behalf of his county or the State of South Dakota. **7-16-19**
- **Enforcement of gambling laws--Duties of public officers.** It shall be the duty of all sheriffs, police officers, town marshals, constables, and other peace officers and the state's attorneys in each county and the deputies or assistants of any of them to cooperate in the enforcement of all the provisions of chapter 22-25. **23-13-4**
- **Action by state's attorney for benefit of spouse, minor children or public schools.** In case the losing party fails to bring an action under § 21-6-1 within the time allowed by said section, it shall be the duty of the state's attorney, at any time within six years from the date of the loss, to bring action to recover such thing, or the value thereof, for the benefit of the spouse or minor children of such party, or, in case there be no spouse or minor children, for the benefit of the public schools. **21-6-2**
- **(Game & Fish) - Conservation officers authorized to execute process--Arrest without warrant--Assistance by peace officers--"Conservation officer" defined.** While performing their lawful duties assigned to them by the Department of Game, Fish and Parks, conservation officers and their supervisors have full power and authority to serve and execute all warrants and process of law issued by a court in enforcing the provisions of any law of the state in the same manner as any constable or sheriff may serve and execute the same. While performing their lawful duties assigned to them by the Department of Game, Fish and Parks, conservation officers and their supervisors have full power and authority to arrest, without a warrant, any person detected in the act of violating any laws of this state which they are authorized to enforce. For the purpose

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of enforcing the game, fish, parks, and boating laws, conservation officers and their supervisors may call to their aid any law enforcement officer or other persons, and all state's attorneys, law enforcement officers, and other persons shall, if called upon, enforce and aid in enforcing such laws. For purposes of this section the term, conservation officer, means any game, fish and parks employee whose duty is the enforcement of the game, fish, parks, and boating laws of this state.

41-15-10

- ***(Human Rights) - Charge filed with division--Requirements--Contents--Public officials may file charge.*** Any person claiming to be aggrieved by a discriminatory or unfair practice may file with the Division of Human Rights a verified, written charge which shall state the name and address of the person or agency alleged to have committed the discriminatory or unfair practice. The charge shall set forth the facts upon which it is based, and shall contain any other information required by the division. The Commission of Human Rights, a commissioner, a state's attorney, or the attorney general may file a charge. **20-13-29**

- ***(Juvenile Court) - State's attorneys to represent state and Department of Social Services--Exemption.*** The state's attorney shall represent the state in all proceedings brought under this chapter and chapter 26-8A, 26-8B, or 26-8C. The state's attorney shall also represent the Department of Social Services in any proceedings brought under this chapter or chapter 26-8A unless the Department of Social Services has selected a separate attorney and has so informed the concerned state's attorney and the court. **26-7A-9**

- ***Violation of right to work law--Investigations by state's attorney--Prosecutions.*** The state's attorney of each county shall prosecute any person violating any of the provisions of §§ 60-8-3 to 60-8-6, inclusive, in that county. The state's attorney shall enforce these sections. If the state's attorney has any information or knowledge or has any reason to believe that any of the provisions of these sections are being violated in the county, the state's attorney shall investigate and use every legitimate means to secure the necessary and proper evidence of the violation. Immediately upon securing the evidence, the state's attorney shall file a complaint or preliminary information against any person against whom the state's attorney has any evidence of any such violation. The state's attorney shall have the person arrested and shall vigorously prosecute such charges to final judgment. **60-8-8**

- ***(Mentally Ill) - State's attorney to represent petitioners--Reasonable costs.*** In any proceeding for involuntary commitment, review, or detention, or in any proceeding challenging commitment or detention, the state's attorney for the county in which the proceeding is held shall represent the petitioner and shall defend all challenges to commitment or detention. The county ultimately shown to be the county of residence shall reimburse the county in which the proceeding is held for any reasonable cost of such representation. No lien may be placed against the person for the costs incurred in any proceeding for involuntary commitment, review, or detention. **27A-11A-4**

- ***Participation by state's attorney.*** The state's attorney of the county in which a county review board is meeting shall participate, either in person or by assistant, in hearings convened by the board under this chapter. **27B-7-35**

- ***Actions against county commissioners for misconduct in office.*** It shall be the duty of the state's attorney to begin and prosecute a civil action or actions on behalf of the county against the county commissioners, or any one or more of them, for malfeasance in office, misappropriation of public funds, or other misconduct whenever there is reasonable cause therefor and he shall be requested so to do by a written petition signed by fifteen resident

taxpayers of the county. **7-16-14**

- **(Motor Carrier) - Prosecution of action by attorney general--Assistance of state's attorney--Costs and expenses.** If a petition under § 49-13-17 is filed, presented, or to be prosecuted by the commission, by its initiative, the commission may require the attorney general to prosecute. In the prosecution, the attorney general may request the assistance of the state's attorney of that county in any proceedings that are instituted. The state's attorney shall render assistance. The costs and expenses on the part of the commission for the prosecution shall be paid out of the appropriations for the expenses of the commission. **49-13-23**

- **Part-time state's attorney--Office at business address authorized.** The state's attorney of a county not employing a full-time state's attorney may maintain the Office of State's Attorney at his regular business address. The board of county commissioners may provide him an allowance for fixed office overhead expenses in lieu of furnishing office space at the courthouse. **7-16-19.1**

- **(Pest Control) - Prosecution of violations--Collection and disposition of forfeitures and fines.** The state's attorney shall, upon complaint, prosecute any person who violates any provision of this chapter and enforce the collection of forfeitures and fines. Such forfeitures or fines shall be deposited in the general fund of the county in which the prosecution is brought. **38-22-30**

- **(Quieting Title) - Employment of additional counsel to assist state's attorney.** In counties where it shall be determined by the board of county commissioners of such county that the state's attorney of such county is unable to handle the work required in the prosecution of the action or actions as herein authorized by reason of the additional work imposed upon him by the adoption of this chapter, then and in such cases, the state's attorney is hereby authorized to contract with additional counsel to prosecute and bring such action or actions herein authorized, which additional counsel shall be by the state's attorney appointed as an assistant state's attorney, the contract with such additional counsel to be approved by the county commissioners, and his compensation paid out of the appropriate fund of said county. **21-42-21**

- **Suspension of state's attorney or sheriff pending prosecution.** If any state's attorney or sheriff is arrested for or charged with any offense against the laws of this state or the United States of America, and the Governor is informed that criminal proceedings are pending before any court or officer, the Governor shall in the case of a felony and may in the case of a misdemeanor suspend that state's attorney or sheriff from office until such charge is prosecuted. The effect of such a suspension is to relieve the affected state's attorney or sheriff from all responsibilities provided by law which are pertinent to that position. **3-17-12**

- **Salaries of deputies.** The salaries of the deputy state's attorneys shall be paid in the same manner that the salary of the state's attorney is paid each month. No deputy state's attorney shall be entitled to receive any salary under the provisions of this section, unless the state's attorney shall, at the same time, attend to and perform the duties of his office as provided by law. The board of county commissioners may in its discretion allow such compensation for the deputies as it shall deem proper. **7-16-5**

- **Enforcement of state's right to materials from lake and river beds.** It shall be the duty of the attorney general, or any state's attorney, on direction of the Governor, to commence any action necessary to protect the rights of the state under §§ 5-2-4 to 5-2-8, inclusive. **5-2-9**

- **Reimbursement of traveling expenses incurred on official business--Mileage allowances.** The state's attorney and his deputy and special agents are entitled to receive from the county their necessary traveling and hotel expenses, including necessary telephone

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and telegraph bills, while traveling for the purpose of making investigations and attending to the duties of their office either within or without the state. The county treasurer shall pay the expenses upon the presentation of itemized vouchers approved by the state's attorney. When the state's attorney or his deputy or special agent uses his own automobile or conveyance, he is entitled to receive not more than the state rate for each mile necessarily traveled. **7-16-16**

- ***(Unemployment Compensation) - Criminal prosecutions by attorney general or state's attorney.*** Any criminal action for violation of any provision of this title or of any rule promulgated pursuant to this title shall be prosecuted by the attorney general of the state; or, at the attorney general's request and under the attorney general's direction, by the state's attorney of any county in which the employer has a place of business or the violator resides. **61-3-16**

STATUS Ch 7-18

- ***County as body corporate--Party in court.*** Each county is a body corporate for civil and political purposes only, and as such may sue and be sued, plead and be impleaded, in any court in this state. **7-18-1**

SURPLUS COMMODITIES Ch 6-13

- ***Distribution of surplus commodities.*** The board of county commissioners shall have power to cooperate with the federal or state government or any duly constituted agency thereof by expending moneys for the care and distribution of federal surplus commodities, employing clerical help, office space, office supplies and equipment, telephone, and telegrams, and other incidental expenses and to pay for same out of the general fund and such cooperation shall include fixing of responsibility by designation of a single administrator or officer for the purpose of determining eligibility and supervising distribution and accountability, or the board may request the division of social welfare in writing to determine eligibility, relative to surplus commodities for the needy as defined in Title 28 and acts amendatory thereto. **7-8-25**

TAXATION: Refer to → Property Taxes

TAX DEED AND SCHOOL FUND MORTGAGE LANDS Ch 7-31

- ***Appeal from county commissioners to circuit court.*** Any person aggrieved by any decision of the board of county commissioners upon matters pertaining to §§ 7-31-1 to 7-31-34, inclusive, shall have the right to appeal to the circuit court, and the procedure of such appeal shall be the same as now provided for by law for appeals from decisions of boards of county commissioners. **7-31-35**
- ***Petition by political subdivision to sell county property--Direction of sale by county commissioners--Reclassification of class two land.*** Whenever a majority of the board of county commissioners deems it advisable, or whenever a written petition shall be presented to said board by the governing body of any municipal corporation, school board, board of education or township board, requesting the sale of any real property over which such petitioner has taxing power, the board of county commissioners shall direct that such real property be offered for sale in accordance with chapter 6-13. However, land classified as class two land shall not be offered for sale until after it has been reclassified as class one land by the board of county commissioners as provided in § 7-31-3. **7-31-16**
- ***Legislative policy and purpose.*** It is hereby declared to be the policy of the Legislature to provide for the conservation of the land resources of the counties, for the establishment of sound administration and management of county-owned lands in order that these lands may be conserved and the maximum revenue obtained, for the protection of the tax base, and for the encouragement of stable operation of farms and ranches. **7-31-1**
- ***County commissioners to control land.*** The board of county commissioners of any county shall have control of the sale, rental, and management of real property owned by the county acquired in satisfaction of school-fund loan mortgages or through foreclosure, or acquired through tax-deed proceedings or in payment of taxes, as provided in §§ 7-31-1 to 7-31-36, inclusive. **7-31-2**
- ***Apportionment of rental proceeds from tax-deed lands.*** The rental proceeds in any one year from the real estate acquired by counties under tax deed shall, after deducting the expenses of taking such tax deed and after deducting an amount agreed upon by the board of county commissioners necessary for general administrative expenses of tax-deed land, be apportioned by the county officials controlling such proceeds in the same manner as taxes on real estate due and payable during the same year are apportioned. **7-31-12**
- ***Apportionment of proceeds of sale of land.*** The proceeds of any sale of land bid in and acquired pursuant to chapters 10-23, 10-25, and 10-26, after deducting the expenses incurred by the county in the proceedings to take tax deed and in such sale proceedings, shall be placed to the credit pro rata of the various funds and taxing districts which are the beneficiaries of the tax for the year for which such property was sold at tax sale; provided, however, that it shall be lawful for the county treasurer, in his discretion, to distribute the proceeds received from the sale of any property under the provisions hereof by prorating such proceeds on the basis of the levy for any one year the taxes of which are included in the proceeds of such sale, taking the year which represents the more equitable basis for such distribution. **7-31-31**

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TAX INCREMENTAL DISTRICTS Ch 11-9

- ***Planning commission hearing on creation of district--Notice.*** In order to implement the provisions of this chapter, the planning commission shall hold a hearing at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district and its proposed boundaries. Notice of the hearing shall be published once, not less than ten nor more than thirty days prior to the date of the hearing in a legal newspaper having a general circulation in the redevelopment area of the municipality. Prior to publication, a copy of the notice shall be sent by first class mail to the chief executive officer of all local governmental entities having the power to levy taxes on property located within the proposed district and to the school board of any school district which has property located within the proposed district. **11-9-3**

- ***Governing body resolution creating district--Boundaries--Name.*** In order to implement the provisions of this chapter, the governing body shall adopt a resolution which:

- (1) Describes the boundaries, which may, but need not, be the same as those recommended by the planning commission, of a tax incremental district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included. The boundaries may not split a whole unit of property which is being used for a single purpose;

- (2) Creates the district on a given date;

- (3) Assigns a name to the district for identification purposes. The first district created in each municipality shall be known as "Tax Incremental District Number One, City (or Town) of ____." Each subsequently created district shall be assigned the next consecutive number. **11-9-5**

- ***Maximum percentage of taxable property in municipality permitted in districts.*** In order to implement the provisions of this chapter, the resolution required by § 11-9-5 shall contain a finding that the aggregate assessed value of the taxable property in the district plus the tax incremental base of all other existing districts does not exceed ten percent of the total assessed value of taxable property in the municipality. **11-9-7**

- ***Findings required as to blighted areas or economic development--Likelihood of enhanced value from improvements.*** To implement the provisions of this chapter, the resolution required by § 11-9-5 shall contain findings that:

- (1) Not less than twenty-five percent, by area, of the real property within the district is a blighted area or not less than fifty percent, by area, of the real property within the district will stimulate and develop the general economic welfare and prosperity of the state through the promotion and advancement of industrial, commercial, manufacturing, agricultural, or natural resources; and

- (2) The improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district. It is not necessary to identify the specific parcels meeting the criteria. No county may create a tax incremental district located, in whole or in part, within a municipality, unless the governing body of the municipality has consented thereto by resolution. **11-9-8**

- ***Definition of blighted area.*** **11-9-9; 11-9-10; 11-9-11**

- ***Annual notice to taxing districts as to total assessed value and tax incremental base--Change in laws not to result in lower assessed values--Conditions.*** The Department of Revenue shall annually give notice to the auditor or finance officer of all governmental entities having the power to levy taxes on property within a district of both the assessed value of the property and the assessed value of the tax increment base. The notice shall also explain that the taxes collected

in excess of the base will be paid to the municipality as provided in § 11-9-28. No change in the laws of the State of South Dakota affecting taxation of property may result in a lower assessed value of the property and the assessed value of the tax incremental base so long as the tax incremental district is in force and until bonds issued pursuant to this chapter are retired. **11-9-24**

- **Definition and computation of tax increment for district.** A "tax increment" is that amount obtained by multiplying the total county, municipal, school, and other local general property taxes levied on all taxable property within a tax incremental district in any year by a fraction having a numerator equal to that year's assessed value of all taxable property in the district minus the tax incremental base and a denominator equal to that year's assessed value of all taxable property in the district. In any year, a tax increment is "positive" if the tax incremental base is less than the aggregate assessed value of taxable property. It is "negative" if the base exceeds such value. **11-9-26**

- **Taxation of property in district.** With respect to the municipality, the county, school districts and any other local governmental body having the power to levy taxes on property located within a tax incremental district, the calculation of the assessed valuation of taxable property in a tax incremental district, for purposes of computing the dollar and cents rates of such taxing units, may not exceed the tax incremental base of the district until the district is terminated. The dollar and cents rates of all such taxing units so determined, however, shall be assessed and extended against all taxable property in the tax incremental district at its current assessed valuation. However, no change in South Dakota law affecting taxation of property may result in a lesser rate for the tax incremental base until the district is terminated pursuant to this chapter. **11-9-27**

- **Bonds or contracts authorized by resolution.** Tax incremental bonds, contracts, or agreements shall be authorized by resolution of the governing body without the necessity of any voter's approval. **11-9-34**

- **Termination of tax incremental district.** The existence of a tax incremental district shall terminate when:

- (1) Positive tax increments are no longer allocable to a district under § 11-9-25; or
 - (2) The governing body, by resolution, dissolves the district, after payment or provision for payment of all project costs, grants, and all tax incremental bonds of the district.
- 11-9-46**

TOWNSHIPS Ch 8-1

- **Division of county into townships--Boundaries--Alterations.** The board of county commissioners shall continue to divide the county into as many civil townships as the conveniences of the citizens may require, and shall accurately define the boundaries thereof, and may from time to time make such alterations in the number, names, and boundaries thereof as it may deem proper, by advice of the people as provided for in this chapter. **8-1-2**

- **Organization of civil township on petition of voters.** Whenever a majority of the legal voters of a civil township, formed as provided in § 8-1-2, shall petition the board of county commissioners for civil township organization, such board shall perfect the civil township organization thereof by appointing a board of supervisors for such township to act until its officers are duly elected and qualified as provided by this title. **8-1-5**

- **Petition and election on abolition of township organization.** Except as provided in § 8-1-28, if fifteen percent of the registered voters of any civil township, based upon the total

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number of registered voters at the last preceding general election, petition the township clerk, the clerk, at the direction of the board of supervisors, shall call an election. The election shall be called in the manner prescribed by law for holding special township meetings and the question shall be submitted, "Shall the civil township organization of _____ township be abolished?" "Yes." "No." The election shall be held within sixty days of the filing of the petition and in the manner provided by law for holding elections for the election of civil township officers. The township clerk shall provide a sufficient number of printed ballots for the proper conduct of the election. **8-1-23**

- ***Abolition of township organization on approval by voters--Abstract of votes--Delivery of township property to county auditor.*** If a majority of the votes cast at such election shall be in favor of abolishing such civil township organization, it shall be abolished. The clerk of such township shall forthwith transmit to the county auditor, a statement of such action, together with an abstract of the number of votes cast for and against such proposition at such election. Within thirty days after the holding of such election the officers of such township shall deliver to the county auditor all township books, moneys, papers, and personal property of every kind, and shall thereupon cease to be such officers. **8-1-24**

- ***Hearing to consider proposed reorganization, division or merger of township or fraction of township--Notice.*** If the conditions of subdivision 8-1-8(1), (2), or (3) are met, the board of county commissioners shall hold a public hearing to consider the proposed reorganization, division, or merger. The hearing may be conducted in conjunction with a regularly scheduled meeting of the board. At least twenty days before the hearing, the board shall publish notice of the hearing in the official newspapers of the county and shall send the notice to the township clerk and to each member of the board of supervisors of the affected townships. **8-1-9**

- ***Election to decide reorganization, division, or merger of townships.*** Following the hearing required in § 8-1-9, the proposed reorganization, division, or merger shall be decided by the voters of the affected civil townships and the affected portions of unorganized congressional townships by ballot at the next regular township election. Any registered voter residing in the affected portion of an unorganized congressional township shall be afforded the opportunity to vote in conjunction with the election held in the township to which the unorganized area is proposed to be attached, except that the votes of such persons shall be tabulated separately by officials of the township. The board of supervisors of each affected township shall publish notice of election in the same manner as provided in chapter 8-3 for publication of notice of the annual township meeting. If any portion of an unorganized congressional township is proposed to be attached to a civil township, the affected civil township shall also publish its notice in any official newspaper of the county that is not an official newspaper of the township. If a majority of the votes cast in each of the affected townships and in the affected portion of each affected unorganized congressional township are in favor of the proposed reorganization, division, or merger, the proposal shall be implemented as provided in this chapter. If no vote is cast by any resident of an affected portion of a civil township or unorganized congressional township, the board of county commissioners of the county in which the affected portion is located shall determine the status of the affected portion for purposes of deciding the results of the election in the affected portion. **8-1-10**

- ***Board for adjustment and settlement after reorganization, division or merger of township.*** Within ten days after the election and qualification of the boards of supervisors of

the respective townships that have been reorganized, divided, or merged as provided in § 8-1-8, each of the boards shall appoint one suitable person, who shall be a legal voter of the township where appointed, and the board of county commissioners at its first meeting after the township election shall choose one disinterested person, who shall be a legal voter of the county but not a resident of either of the townships. The three persons so appointed shall constitute a board for the adjustment and settlement of all differences between the townships growing out of the division, reorganization, or merger of the original township. **8-1-15**

- ***Petition for separation of village from civil township--Contents and number of signers.*** Whenever in any civil township, whether such civil township is or is not coextensive in area with a congressional township, containing an area platted, developed, and occupied as a village in which reside more than twenty-five percent of the legal voters of the civil township, in which village legal voters are no less than fifty in number, and which village has a population of not less than one hundred and has not been incorporated as a municipality, sixty percent of the legal voters residing in the portion of the civil township outside the area of the village shall petition the board of county commissioners, the existing or original civil township shall be divided and the area of the village and the area of the balance of the original civil township shall be set apart and each organized into a separate civil township. The said petition shall describe the original civil township, the area of the village and give the approximate number of legal voters therein, describe the area of the balance of the original civil township and give the approximate number of legal voters therein and state that it is the wish of the signers that the original civil township be divided and that the village area and the area outside the village be set apart and each organized as a separate civil township; said petition shall have endorsed thereon and attached thereto an affidavit of three or more of the signers that it is signed by sixty percent of the legal voters of the area outside the village area. **8-1-20**

- ***(POWERS AND OBLIGATIONS OF ORGANIZED TOWNSHIP Ch 8-2:) Surplus funds expended for road work after abolition of township organization.*** At its first meeting after any township ceases to be a civil township as provided by this chapter, the board of county commissioners shall expend all money in the hands of the county treasurer to the credit of such township, in excess of the amount required to pay the indebtedness of such township, for road work in such former township territory according to the laws governing such road work. **8-1-27**

- ***Township with real property or bonded indebtedness not permitted to abolish organization.*** The provisions of §§ 8-1-23 to 8-1-27, inclusive, relating to abolishing of township organizations shall not apply to any township having an outstanding bonded indebtedness nor to any township owning any real property. **8-1-28**

- See also, TOWNSHIP BOARD OF SUPERVISORS **Ch 8-5**
- See also, TOWNSHIP BONDS **Ch 8-11**
- See also, TOWNSHIP CLERK **Ch 8-6**
- See also, TOWNSHIP CONSTABLE **Ch 8-8**
- See also, TOWNSHIP CONTRACTS AND PURCHASES **Ch 8-9**
- See also, TOWNSHIP FISCAL AFFAIRS **Ch 8-10**
- See also, TOWNSHIP MEETINGS AND ELECTIONS **Ch 8-3**
- See also, TOWNSHIP OFFICERS **Ch 8-4**
- See also, TOWNSHIP TREASURER **Ch 8-7**

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TREASURERS - GENERAL DUTIES & RESPONSIBILITIES Ch 7-11

- ***Treasurer as collector of taxes--Office at county seat--Duty to receive county money.***

The county treasurer is the collector of taxes. He shall keep his office at the county seat. It is his duty to receive all money belonging to the county from whatever source derived and other money which by law is directed to be paid to him. **7-11-1**

- ***Bad check--Collection procedure--Removal as asset.*** If a county receives an insufficient fund or no account check, the county shall institute a collection procedure. If after one hundred eighty days the county has not received payment for the insufficient fund or no account check, the county treasurer may, with the majority approval of the board of county commissioners, remove the insufficient fund or no account check as an asset of the county. **7-11-4.2**

- ***Warrants of county auditor required for disbursements by treasurer.*** All money received by the county treasurer for the use of the county shall be disbursed by him only on the warrant of the county auditor drawn according to law, and all money shall be paid over by him at the time and in the manner provided by law. **7-11-6**

- ***Accounting records maintained--Destruction.*** The county treasurer shall keep and maintain such accounting records as set forth in the accounting manual prepared by the auditor-general. However, the county treasurer may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value. **7-11-12**

- ***(Annual Registration and License Plates) - Motor vehicle defined.*** In this chapter, the term, motor vehicle, includes all vehicles or machines, trailers, semitrailers, recreational vehicles, truck tractors, road tractors, and motorcycles propelled by any power other than muscular and used upon the public highways for the transportation of persons or property, or both. **32-5-1**

- ***Application for registration--Contents--Failure to provide information as misdemeanor--Acceptance of incomplete or erroneous form prohibited.*** Every owner, or with written authorization, any other person as defined by subdivision 2-14-2(18) on behalf of and as the agent for the owner, of a motor vehicle, motorcycle, truck tractor, road tractor, trailer or semitrailer, or recreational vehicle or trailer, which is operated or driven upon the public highways of this state, shall, except as otherwise expressly provided, present to the county treasurer of the owner's county, or, in case of a nonresident of this state, the treasurer of any county, application for the registration of that vehicle. The application form shall be furnished by the department and shall contain but not be limited to the following information:

- (1) The number of cylinders or the bore and stroke of each cylinder;
- (2) The manufacturer's weight;
- (3) Whether the vehicle operates on diesel fuel, liquified petroleum gas, gasoline, or any other special fuel;
- (4) The make, model, body, year, color, and vehicle identification number of the vehicle;
- (5) The odometer reading; and
- (6) The purchase price and the name and address of the seller, buyer, and lienholder, if any.

Any person who fails to provide the above information to the county treasurer or the department is guilty of a Class 2 misdemeanor. The department or the county treasurer may not accept an incomplete application form or an application form which the department considers erroneous.

32-5-2

- **Wheel tax rate--Maximum vehicle tax.** Each county may, by ordinance, impose a wheel tax on all motor vehicles, as defined in § 32-3-1, registered in the county at a rate not to exceed five dollars per vehicle wheel. The tax shall be administered and collected by the county. The total vehicle tax may not exceed sixty dollars per vehicle.

32-5A-1

- **(Drainage Assessments and Bonds) - Assessment--Certified copy filed with county treasurer--Notice.** Thirty days after an assessment is made, a copy certified by the county auditor shall be filed by him with the county treasurer. However, before it is filed, the board shall give notice of the time of filing, by publication at least once in each week for two consecutive weeks in an official newspaper in the county as designated by the board. The notice shall contain a description of the property assessed, the name of the owner as it appears in the assessment, the amount of each assessment, including the amount assessed against the county any municipality, township, or railroad company, and the date when the assessment will become delinquent, plus any penalty and the date from which interest will be charged. **46A-11-6**

- **Assessments paid to county treasurer--Distribution.** Assessments shall be paid to the county treasurer and assessment proceeds shall be remitted to the holders of assessment certificates upon order of the board for the particular project. **46A-11-12**

- **Assessments for drainage--Enforcement by county treasurer, sale of property.** Assessments for drainage or installments shall be enforced by the county treasurer by sale of property at an annual tax sale. However, no late assessment or installment may be included in the sale for any year unless it was delinquent on or before August first of that year. Any provisions of law relating to collection of general taxes, redemption from taxes, and issuance of tax deeds shall apply to enforcement of a lien or drainage assessment if applicable, except that a treasurer's deed issued upon a delinquent drainage assessment shall state that the title is subject to claims which the state or any political subdivision may have against the title for annual taxes. **46A-11-19**

- **(Fines) - SD CONSTITUTION Art.VIII, Sec.3** - Fines collected from violations of state laws shall be paid to the treasurer, whom shall distribute among all public schools in that county.

- **County treasurer to remit collections to state.** Each county treasurer shall remit all revenues collected for the state under Title 32 to the state remittance center within the time frame established under chapter 4-3. The secretary of revenue shall establish procedures for supervising the collection and reporting of the revenues. **32-1-6**

- **(Title Registration and Transfers) - Applicability.** The provisions of chapters 32-3 to 32-6B, inclusive, apply to all motor vehicles, trailers, semitrailers, and motorcycles as defined in § 32-3-1 required to be titled under the laws of this state except as otherwise provided by law. **32-3-2**

- **Assistance by county treasurer.** The county treasurer shall assist in the administration of this chapter and perform such duties in connection therewith as may be required by the secretary. **32-3-34**

- **Township funds remitted by county treasurer.** The county treasurer shall periodically remit any funds that have been received for the township to the depository designated by the township. The county auditor shall send to the township treasurer a statement showing the exact source and amount of such funds. **8-10-3**

- **(Unified Judicial System) - Clerk to forward fees and costs monthly to county treasurer.** The clerk of courts shall forward all fees and costs on a monthly basis to the county treasurer for deposit in the county general fund. **16-2-30**

Laws of Governing

URBAN RENEWAL Ch 11-8

- ***Master plan required before approval of urban renewal plans--Adoption of master plan.*** The local governing body shall not approve an urban renewal plan until a master plan or parts of such plan for an area which would include an urban renewal area for the municipality have been prepared. For this purpose and other municipal purposes, authority is hereby vested in every municipal governing body to prepare to adopt, and to revise from time to time a master plan or parts thereof as defined in § 11-6-14, for the physical development of the municipality as a whole and to make available and to appropriate necessary funds therefor. **11-8-12**

- ***"Slum area" defined.*** Wherever used or referred to in this chapter, unless a different meaning is clearly indicated by the context, "slum area" shall mean an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors as are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals, or welfare. **11-8-2**

- ***"Blighted area" defined.*** Wherever used or referred to in this chapter, unless a different meaning is clearly indicated by the context, "blighted area" shall mean an area which by reason of the presence of a substantial number of slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other cause, or any combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use: provided, that if such blighted area consists of open land the conditions contained in § 11-8-17 shall apply: and provided further, that any disaster area referred to in § 11-8-18 shall constitute a "blighted area." **11-8-3**

- ***Findings required for approval of urban renewal project by governing body.*** Following such hearing, the local governing body may approve an urban renewal project and the plan therefor if it finds that:

- (1) A feasible method exists for the location of families who will be displaced from the urban renewal area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families;

- (2) The urban renewal plan conforms to the master plan of the municipality as a whole;

- (3) The urban renewal plan gives due consideration to the provision of adequate park and recreational areas and facilities that may be desirable for neighborhood improvement, with special consideration for the health, safety, and welfare of children residing in the general vicinity of the site covered by the plan; and

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(4) The urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise. **11-8-16**

- ***Relocation assistance and payments to persons displaced from urban renewal area.***

Every municipality shall have the power to prepare plans for and assist in the relocation of persons, including individuals, families, business concerns, nonprofit organizations and others, displaced from an urban renewal area, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government.

11-8-26

- ***Urban renewal agency created--Finding and election required before exercise of powers.*** There is hereby created in each municipality a public body corporate and politic to be known as the "urban renewal agency" of the municipality; provided, however, that such agency shall not transact any business or exercise its powers hereunder until or unless the local governing body has made the finding prescribed in § 11-8-8 and has elected to have the urban renewal powers exercised by an urban renewal agency as provided in §§ 11-8-38 and 11-8-39.

11-8-40

- ***Tax exemption of urban renewal property--Termination of exemption on transfer to private purchaser or lessee.*** The property of a municipality, acquired or held for the purposes of this chapter is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the municipality, the county, the state, or any political subdivision thereof: provided that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

11-8-64

- ***Power to issue bonds for urban renewal projects--Refunding bonds.*** A municipality shall have power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this chapter, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans or preliminary loans, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. **11-8-66**

- ***Tax exemption of bonds.*** Bonds issued under the provisions of this chapter are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes. **11-8-72**

WEED AND PEST Ch 38-22

- ***Administration of commission under department supervision--Independent functions retained by commission.*** The South Dakota Weed and Pest Control Commission shall be administered under the direction and supervision of the department and the secretary of agriculture and natural resources. The commission retains the quasi-judicial, quasi-legislative, advisory, other nonadministrative and special budgetary functions (as defined in § 1-32-1) otherwise vested in it and may exercise those functions independently of the secretary.. **38-22-1.1**

- ***Formulation of weed and pest program.*** The South Dakota Weed and Pest Control Commission shall formulate a weed and pest program for the prevention, suppression, control, and eradication of weeds and pests in South Dakota. **38-22-7**

- ***Infested land declared public nuisance--Protective operations by secretary.*** If any owner of weed or pest infested land fails to rid the land of such infestation and the secretary of agriculture and natural resources finds that such infestation is a menace to neighboring lands or to the state or its people he may declare such infested land to constitute a public nuisance and may enter such infested areas and perform such protective operations as may be necessary.**38-22-16**

- ***Certification to county auditor of cost of protective operations on infested land--Collection as taxes.*** Upon completion of protective operations, the secretary of agriculture and natural resources shall certify to the county auditor the expenses for the performance of the protective operations, and the county auditor shall issue a warrant to the party entitled to payment of the costs of such protective operations from funds appropriated for that purpose. The owner of such infested land is indebted to the county for such expense actually incurred, and if not paid on or before the first day of November following such operations, such county auditor shall extend the amount of such indebtedness on the tax list against the infested land and all land owned by such owner contiguous thereto, in a separate column headed "weed and pest control" and the amount shall be collected as other taxes are collected.**38-22-21**

- ***Members of county weed and pest board--Number--Terms--Qualifications.*** The board of county commissioners shall appoint or provide for the election of a county weed and pest board which shall consist of five or seven members. However, one member shall be a county commissioner appointed by the board of county commissioners. Each member shall serve for a term of three years or until his successor is appointed and qualified. The board of county commissioners may stagger the initial appointments so that the terms of all of the board members do not expire at the same time. Any qualified elector, residing in the board member area he is appointed to represent, is eligible to be a member. **38-22-23.2**

- ***Compensation and expense allowances of board members.*** The board of county commissioners shall establish rates of compensation and expense and mileage allowances for the county weed and pest board members. **38-22-23.8**

- ***Purchase, sale, and application of agricultural chemicals and poisons by board--Equipment--Labor.*** The county weed and pest board may purchase such quantities of agricultural chemicals, poisons, and equipment and hire such labor necessary to carry out the provisions of this chapter. The board may sell and apply agricultural chemicals and poisons for weed and pest control if such services, chemicals, and poisons are not available through commercial sources.

38-22-23.11

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- ***Expenditure of county funds.*** The board of county commissioners may, based upon the budget submitted by the county weed and pest board, appropriate and expend money from the general fund of the county for the purpose of this chapter. **38-22-24**

WHEEL TAX Ch 32-5A

- ***Wheel tax rate--Maximum vehicle tax.*** Each county may, by ordinance, impose a wheel tax on all motor vehicles, as defined in § 32-3-1, registered in the county at a rate not to exceed five dollars per vehicle wheel. The tax shall be administered and collected by the county. The total vehicle tax may not exceed sixty dollars per vehicle. **32-5A-1**
- ***Deposit, use, and distribution of proceeds.*** The proceeds from the tax created by this chapter shall be retained by the county and deposited in the county road and bridge fund, and the revenue may be used only for highway and bridge maintenance and construction. The board of county commissioners shall, by resolution, establish a means of distributing the revenue generated by this chapter among the county and the municipalities and townships located within the county. **32-5A-2**
- ***Schedule of rates.*** The per vehicle wheel rate imposed pursuant to § 32-5A-1 may be imposed according to the manufacturer's shipping weight, including accessories, and may vary according to the following schedule:
 - (1) Two thousand pounds or less, inclusive;
 - (2) From 2001 to 4000 pounds, inclusive;
 - (3) From 4001 to 6000 pounds, inclusive;
 - (4) Over 6000 pounds. **32-5A-5**
- ***Prorated tax if licensed for less than twelve months.*** If a motor vehicle is licensed for a period of time of less than twelve months, any wheel tax imposed on such motor vehicle pursuant to this chapter shall be prorated on a monthly basis. **32-5A-7**

ZONING Ch 11-2 - See - PLANNING & ZONING

[illegible]

Online Resources

There is a wealth of resources available to county officials from local, state and federal web sites. From in-depth research to the status of legislation, the information available to you as a county official through the web is truly limitless. Below is a sampling of the Web sites that have proven to be beneficial to county officials.

National

National Association of Counties (NACo) - www.naco.org

National Conference of State Legislatures - www.ncsl.org

The United States House of Representatives - www.senate.gov

The United States Senate - www.senate.gov

The White House - www.whitehouse.gov

State

State of South Dakota - <http://sd.gov>

Note: All the below state departments can be accessed through this site.

- State Elected Officials
- Governor
- Judicial
- Legislature
- OpenSD
- South Dakota Elections
- State Agencies

State and County Associations

South Dakota Association of County Commissioners (SDACC) - www.sdcountycommissioners.org

South Dakota Association of County Officials (SDACO) - www.sdcounties.org

Note: Individual County Websites may be accessed through these two sites

South Dakota Association of Assessing Officers (SDAAO) - www.sdaao.org

South Dakota Association of Cooperatives (SDAC) - www.sdac.coop

South Dakota Association of County Highway Superintendents (SDACHS) - www.sdcountycommissioners.org

South Dakota Association of County Welfare Officials - www.sdcountycommissioners.org

South Dakota Association of Towns and Townships (SDATAT) - www.sdtownships.com

South Dakota Local Transportation Assistance Program (SD LTAP) -

<http://www.sdstate.edu/jerome-j-lohr-engineering/sd-local-transportation-assistance-program>

South Dakota Municipal League (SDML) - <http://www.sdmunicipalleague.org>

South Dakota States Attorneys' Association (SDSAA) - www.sdstatesattorneys.org

South Dakota Sheriffs' Association (SDSA) - www.southdakotasheriffs.org

Endorsed Programs

South Dakota Public Assurance Alliance (SDPAA) - www.sdpaaonline.org

The SDPAA is owned by its Members and offers broad specialized coverage for the following:

- General Liability
- Automobile Liability
- Automobile Physical Damage
- Public Officials Liability
- Law Enforcement Liability
- Property
- Equipment Breakdown
- Enhanced Crime
- Cyber Liability

Coverage extends to elected and appointed officials and to volunteers. The SDPAA offers a variety of credits for qualifying Members. These credits reduce Members' cost of coverage.

SDPAA Members receive the following benefits:

- Stable pricing
- Risk control surveys conducted on-site every three years at no additional cost
- Property valuation reviews conducted on-site every four years at no additional cost
- Risk control, loss control, and safety assistance at no additional cost

Please contact SDPAA at 605.224.8654 or 800.658.3633 (Option 2) or via email at sdpaa@sdmunicipalleague.org with any questions.

South Dakota Municipal League Workers Compensation Fund (SDML WC)

www.sdmlwcfund.com

The SDML Workers' Compensation Fund is a self-funded mechanism created for its members and is overseen by its members to provide statutory workers' compensation coverage for public entities. The SDML Workers' Compensation Fund has a strong commitment to providing a competitive workers' compensation program for the public entities in South Dakota through administrative, loss control and technical services.

Member Advantages:

- Statutory Coverage
- Medical (No Deductible)
- Death Benefits
- Compensation
- Rehabilitation (Includes re-training)
- Employers Liability Limits of \$2,000,000
- Accidental Death & Dismemberment (fully insured) Policy for Volunteer Firefighters & EMT's
- Elected & Appointed Officials are Covered
- Volunteers are covered - *including Firefighters, and EMT's*
- Stable Rates
- Credits - Renewal, Equity, Loss Control
- Free Safety & Loss Control Training
- Board representation made up of Members

For more information, please contact Insurance Benefits, Inc. at 800.233.9073 or email to info@sdmlwcfund.com with any questions.

Public Surplus <https://register.publicsurplus.com/sms/mnaoc,mn/register/agency>

Public Surplus has grown to become the largest Government Auction service in the United States. Their experience and innovative online portal help streamline the tax sale process that counties are obligated to perform. Register now to begin receiving your discounts.

SD County Districts

(1) Upper Missouri Valley

Campbell
Edmunds
Faulk
McPherson
Potter
Walworth

(2) Lake Region

Brown
Day
Grant
Marshall
Roberts

(3) Sioux Valley

Beadle
Brookings
Clark
Codington
Deuel
Hamlin
Kingsbury
Lake
Moody
Spink

(4) South East Central

Aurora
Brule
Buffalo
Davison
Douglas
Hanson
Jerauld
McCook
Miner
Sanborn

(5) South East

Bon Homme
Clay
Hutchinson
Lincoln
Minnehaha
Turner
Union
Yankton

(6) Oahe

Hand
Hughes
Hyde
Stanley
Sully

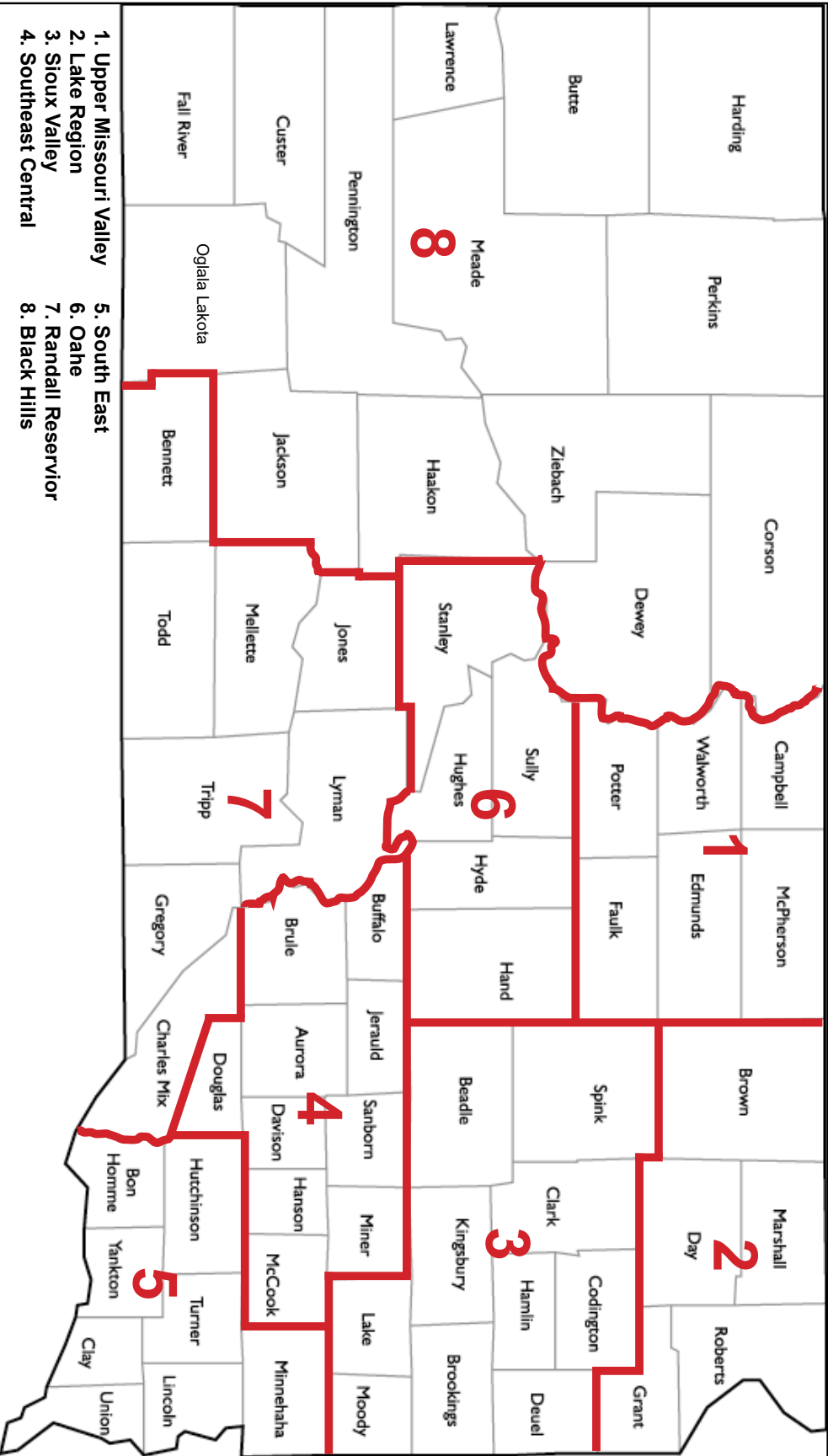
(7) Randall Reservoir

Bennett
Charles Mix
Gregory
Jones
Lyman
Mellette
Tripp
Todd

(8) Black Hills

Butte
Corson
Custer
Dewey
Fall River
Haakon
Harding
Jackson
Lawrence
Meade
Oglala Lakota
Pennington
Perkins
Ziebach

SD Counties District Map



Parliamentary Procedures At A Glance

To Do This: (1)	You Say This:	May You Interrupt Speaker?	Must You Be Seconded?	Is the Motion Debatable?	Is the Motion Amendable?	What Vote Is Required?
Adjourn the meeting (before all business is complete)	"I move that we adjourn."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority vote
Recess the meeting	"I move that we recess until..."	May not interrupt speaker	Must be seconded	Not debatable	Amendable	Majority vote
Complain about noise, room temperature, etc.	"Point of privilege."	May interrupt speaker	No second needed	Not debatable (2)	Not amendable	None (3)
Suspend further consideration of something	"I move we table it."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority vote
End debate	"I move the previous question."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Two-thirds vote
Postpone consideration of something	"I move we postpone this matter until..."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote
Have something studied further	"I move we refer this matter to a committee."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote
Amend a motion	"I move that this motion be amended by..."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote
Introduce business (a primary motion)	"I move that..."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote

Notes

1. These motions or points are listed in established order of precedence. When any one of them is pending, you may not introduce another that's listed below it. But you may introduce another that's listed above it
2. In this case, any resulting motion is debatable.
3. Chair decides.

Parliamentary Procedures At A Glance (continued)

To Do This: (4)	You Say This:	May You Interrupt Speaker?	Must You Be Seconded?	Is the Motion Debatable?	Is the Motion Amendable?	What Vote Is Required?
Object to procedure or to a personal affront	"Point of order."	May interrupt the speaker	No second needed	Not debatable	Not amendable	None (3)
Request information	"Point of information."	If urgent, may interrupt speaker	No second needed	Not debatable	Not amendable	None
Ask for a vote by actual count to verify a voice count	"I call for a division of the house."	May not interrupt speaker (5)	No second needed	Not debatable	Not amendable	None unless someone objects (6)
Object to considering some undiplomatic or improper matter	"I object to consideration of this question."	May interrupt speaker	No second needed	Not debatable	Not amendable	Two-thirds vote required
Take up a matter previously tabled	"I move we take from the table..."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority required
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	May interrupt speaker	Must be seconded	Debatable if original motion is debatable	Not amendable	Majority required
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Two-thirds vote required
Vote on a ruling by the chair	"I appeal the chair's decision."	May interrupt speaker	Must be seconded	Debatable	Not amendable	Majority in the negative required to reverse chair's decision

Notes

4. The motions, points and proposals have no established order of precedence. Any of them may be introduced at any time except when the meeting is considering one of the top three matters listed in the chart (motion to adjourn, motion to recess, point of privilege).
5. But division must be called for before another motion is started.
6. Then majority vote is required.

■ Resources

What's in a Name?

Aurora: Roman Goddess of the Dawn

Beadle: Brig. General William Henry Harrison Beadle, pioneer educator, lawyer, legislator and soldier

Bennett: Either John E. Bennett, Supreme Court Judge or Granville C. Bennett, local politician

Bon Homme: French word meaning "good man"

Brookings: Judge Wilmont W. Brookings, outstanding state pioneer

Brown: Alfred Brown, Legislator

Brule: Brule Sioux Native Americans

Buffalo: American Bison

Butte: Geographical features known as "buttes"

Campbell: Newton B. Campbell

Charles Mix: Charles Mix, Chief Clerk - Interior Dept.

Clark: Newton Clark, territorial legislator

Clay: Henry Clay, Speaker of the US House of Representatives

Codington: Reverend G.S. Codington, local circuit preacher

Corson: Dighton Corson, Justice of the Supreme Court of South Dakota

Custer: Gen. George A. Custer

Davison: Henry C. Davison, prominent merchant and politician

Day: Merrit H Day, territorial legislator

Deuel: Jacob S. Deuel, sawmill owner

Dewey: William P. Dewey, territorial surveyor-general

Douglas: Stephen A. Douglas, US Senator

Edmunds: Newton Edmunds, second Governor of Dakota Territory

Fall River: Named for the Fall River

Faulk: Andrew Jackson Faulk, Governor of Dakota Territory

Grant: Ulysses S. Grant.

American Civil War General & US President

Gregory: C. H. Gregory, officer in the US Army

Haakon: Haakon VII of Norway due to Scandinavian settlers

Hamlin: Hannibal Hamlin, Vice President under Abraham Lincoln

Hand: George H. Hand, Civil War soldier, United States

Attorney for Dakota Territory

Hanson: Major Hanson

Harding: J.A. Harding, Speaker of the House of Representatives of Dakota Territory

Hughes: Hon. Alexander Hughes territorial legislator

Hutchinson: John Hutchinson, territorial secretary

Hyde: James Hyde, territorial legislator

Jackson: J.K. Jackson, territorial legislator

Jerauld: H.A. Jerauld, territorial legislator

Jones: Early settlers from Jones County, Iowa

Kingsbury: George W. and T.A. Kingsbury, brothers and territorial legislators

Lake: Many beautiful lakes which lie within the boundaries

Lawrence: Colonel John Lawrence, county's first treasurer

Lincoln: Abraham Lincoln

Lyman: Major W.P. Lyman, territorial legislator

Marshall: Marshall Vincent, area's foremost citizen

McCook: Edward S. McCook, Civil War General, Secretary of Dakota Territory

McPherson: Brig. General James B. McPherson, Civil War Officer

Meade: Ft. Meade, US Military Post

Mellette: Arthur C. Mellette, first Governor of the state

Miner: Captain Nelson Miner, territorial legislator

Minnehaha: Native American word meaning river waterfall

Moody: Col. Gideon C. Moody, one of South Dakota's first US Senators

***Oglala Lakota:** named for the tribal nation located in that area

Pennington: John L. Pennington, Governor of Dakota Territory

Perkins: Henry E. Perkins, State Senator

Potter: Dr Joel A. Potter, member of the legislature

Roberts: S. G. Roberts, book publisher

Sanborn: George W. Sanborn, Milwaukee Railroad Supt.

Spink: S. L. Spink, Secretary of the Dakota Territory

Stanley: Brig. General David S. Stanley, Fort Sully commander

Sully: General Alfred Sully, builder and commander of the military post, Fort Sully

***Todd:** John Blair Smith Todd, first delegate to Congress from Dakota Territory

Tripp: Bartlett Tripp, Chief Justice of the Territorial supreme court

Turner: John W. Turner, Dakota territory legislator

Union: Sentiment for the Union side of the Civil War

Walworth: Walworth County, Wisconsin by settlers

Yankton: Sioux word meaning "end village"

Ziebach: Frank M. Ziebach, militia captain

*** unincorporated Counties**